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Balancing Constraints and Leveraging Opportunities India's Approach at Multilateral Negotiations

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**BALANCING CONSTRAINTS AND LEVERAGING OPPORTUNITIES:
INDIA'S APPROACH AT MULTILATERAL NEGOTIATIONS**

KARTHIK NACHIAPPAN

KING'S COLLEGE LONDON

**SUBMITTED FOR THE DEGREE OF
PhD CONTEMPORARY INDIA RESEARCH**

ABSTRACT

This thesis considers how India negotiates international rules and why it ratifies certain international rules but not all. To date, the scholarly coverage on this question has not captured the texture of India's interactions with the international order, specifically the process through which India negotiates international rules on key issues. This lacuna is unfortunate since India has been widely involved across the international order working to influence, shape, evade and resist international rules that have an effect on its development and security.

In this study, I argue that India's approach toward international rules is determined by three factors – what the *interests* are toward a particular rule; how adeptly *institutions* like the bureaucracy, legislature and executive understand the policy problem being negotiated and adopt policy actions given state interests on the issue; and how effective domestic *interest groups* are in articulating their respective preferences to state institutions responsible for international negotiations and coordinate with them thereafter to secure policies in their favour.

Empirically, I consider India's behaviour negotiating four specific international rules - Framework Convention on Tobacco Control (FCTC), Framework Convention on Climate Change (FCCC), Comprehensive Test Ban Treaty (CTBT) and GATT's Uruguay Round Trade Agreement. Through detailed case studies, I demonstrate that political economy considerations, specifically how interests, institutions and interest groups interact, affects how India negotiates international rules and the decision taken thereafter to ratify or not. The empirical findings of the thesis also call us to question prevailing claims of India being a rising power that has the ability to manage its rise in the international order that involves interacting with various aspects of the order including the negotiation of international rules. We might require a new conceptual vocabulary to consider and explain the behaviour of key states like India that are rising powers when measured in aggregate terms and systemic impact but less so when considering their development challenges and constraints.

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ABBREVIATIONS

ACC – Associated Chamber of Commerce

ACTION – Action against Tobacco: Indian Organizations Network

AEC – Atomic Energy Commission

AFTC – Advocacy Forum for Tobacco Control

AIEI – Association of Indian Engineering Industry

AIIMS – All India Institute of Medical Sciences

AOA – Agreement on Agriculture

AR – Assessment Report

ATC – Agreement on Textiles and Clothing

BARC – Bhabha Atomic Research Centre

BJP – Bharatiya Janata Party

CAP – Common Agricultural Policy

CCEA – Cabinet Committee on Economic Affairs

CD – Conference on Disarmament

CEI – Confederation of Engineering Industry

COTPA – Cigarettes and other Tobacco Products Act

CPI (M) – Communist Party of India (Marxist)

CPR – Centre for Policy Research

CSE – Centre for Science and Environment

CSIR – Council for Scientific and Industrial Research

CTBT – Comprehensive Test Ban Treaty

DAE – Department of Atomic Energy

DOE – Department of Environment

EC – European Commission

EIF – Entry into Force

ENDC - Eighteen Nation Committee on Disarmament

FCA – Framework Convention Alliance

FCCC – Framework Convention on Climate Change

FCTC – Framework Convention on Tobacco Control

FICC – Federation of Indian Chambers of Commerce

FIEO – Federation of Indian Export Organisations

G-21 – Group of 21 countries

G-77 – Group of 77 countries

GATT – General Agreement on Tariffs and Trade

GATS – General Agreement on Trade in Services

GDP – Gross Domestic Product

GEF – Global Environment Facility

GNG – Group of Negotiations on Goods

GNS – Group of Negotiations on Services

HDI – Human Development Index

HRIDAY – Health Related Information Dissemination amongst Youth

IACC – Indian American Chamber of Commerce

IAEA – International Atomic Energy Agency

ICMF – Indian Cotton Mills Federation

IIFT – Indian Institute of Foreign Trade

IMS – International Monitoring System

INB - Intergovernmental Negotiating Body

INC – Intergovernmental Negotiating Committee

INF – Intermediate Range Nuclear Forces Treaty

IPCC – Intergovernmental Panel on Climate Change

IPR – Intellectual Property Rights

IPPNW – International Physicians for the Prevention of Nuclear War

IR – International Relations

ITCB – International Textiles and Clothing Bureau

JD – Janata Dal

JS – Jana Sangh

MEA – Ministry of External Affairs

MFA – Multifibre Arrangement

MFN – Most Favoured Nation

MOC – Ministry of Commerce

MOEF – Ministry of Environment and Forests

MOHFW – Ministry of Health and Family Welfare

NAM – Non-Aligned Movement

NCEP – National Committee on Environmental Planning

NCEPC – National Committee on Environmental Planning and Coordination

NDA – National Democratic Alliance

NGO – Non-Governmental Organisation

NOTE – National Organisation for Tobacco Eradication

NPL – National Physical Laboratory

NPT – Nuclear Non-Proliferation Treaty

NSG – Nuclear Suppliers Group

NTM – National Technical Means

NWGPL – National Working Group on Patents Laws

OECD – Organisation for Economic Cooperation and Development

PPF – Planet Protection Fund

PTBT – Partial Test Ban Treaty

QOG – Quality of Government

SEARO – South East Asia Regional Office

SSOD – Special Session on Disarmament

START – Strategic Arms Reduction Treaty

SWCC – Second World Climate Conference

TERI – Tata Energy Research Institute/The Energy and Resources Institute

TII – Tobacco Institute of India

TFI – Tobacco Free Initiative

TRIPS – Agreement on Trade Related Aspects on Intellectual Property Rights

UN – United Nations

UNCED – United Nations Conference on Environment and Development

UNDP - United Nations Development Programme

UNEP – United Nations Environment Programme

UNFCCC – United Nations Framework Convention on Climate Change

US – United States

VERS – Voluntary Export Restraints

WGI – World Government Index

WHO – World Health Organization

WIPO – World Intellectual Property Organization

WRI – World Resources Institute

WTO – World Trade Organization

Chapter One - Introduction

India is commonly regarded as one of the key states in international politics. India's economic ascent has *generally* been a positive development in world affairs. For better or worse, India's rise will affect major power relations on international policy issues. Fundamental questions of war, peace, economic development and social welfare could hinge on how India fits into the current international order and whether India is willing to work with existing international organisations and major powers to address pressing global concerns like climate change, nuclear proliferation, public health crises and development writ large.

India has also placed considerable premium on matters of international politics, especially matters related to war and peace, decolonisation, human rights and economic development, as evidenced by its leadership at the United Nations and other multilateral forums.¹ To be sure, India's internationalist impulses have ebbed, over time; intermittently, India has participated in regional wars.² Looking across several issue areas – international trade, climate change, nuclear disarmament, arms control and public health - India has been generally resistant to international constraints, but where applicable, it has sought to engineer coalitions between developing countries to shape and ratify international rules. When such rules conflict with or undermine India's interests, India has openly rejected or abstained. In a nutshell, despite being firmly embedded in the international order, India manages its relationship strategically – shaping and accepting rules that advance its interests, collaborating with like-minded

¹This claim is generally made by both scholars of India and IR scholars studying international order. For more, see G. Perkovich, "Is India a Major Power?" *Washington Quarterly*, 27, 1 (2003): 129-144; Xenia Dormandy, "Is India, or will it be, a Responsible International Stakeholder?" *Washington Quarterly*, 30, 3 (2007): 117-130. For two lucid accounts on India's early internationalism, see Manu Bhagavan, *Peacemakers: India and the Quest for One World* (New Delhi: Harper Collins, 2012) and Nayantara Sahgal, *Jawaharlal Nehru: Civilizing a Savage World* (New Delhi: Penguin, 2012). C Raja Mohan describes this early phase as a period of 'expansive multilateralism' that distinguished independent India from other nations given its desire to function 'as a champion of Asian solidarity and decolonization, opposition to racism and apartheid, rejection of militarism and call for general and complete disarmament, contributor to international peacekeeping, and proponent of peaceful coexistence between different political systems.' See C. Raja Mohan, "The Changing Dynamics of Indian Multilateralism," in *Shaping the emerging world: India and the multilateral order*, ed. W.P.S. Sidhu et al. (Washington, DC: Brookings Institution Press, 2013), 27.

²For a brief survey of India's regional troubles, see Kanti Bajpai, 'India's Regional Disputes' in *Shaping the emerging world: India and the multilateral order*, ed. W.P.S. Sidhu et al (Washington, DC: Brookings Institution Press, 2013), 115-130.

developing countries through coalitions to produce rules that protect and advance their interests while rejecting or abstaining from rules that harm existing interests.

However, we still do not have a robust understanding of how India negotiates international rules and why India ratifies certain rules but not all. There is scant evidence to suggest countries like India will not be interested in interacting with various aspects of the international order to propel its rising economic trajectory and fortify its position as a key state. But when and how will India negotiate and ratify international rules and when will India resist or reject them?

This thesis focuses on addressing this gap. In this study, I focus on domestic political factors driving India to negotiate and, at times, ratify international rules. Specifically, I unpack the political economy around negotiations to ascertain what India's *interests* were in negotiating that rule, whether key *institutions* effectively understood how to advance India's interests and if they relied on *interest groups* to eventually determine whether to ratify the international rule or not. This way, we can better understand India's approach negotiating and ratifying international rules.

The Argument – Political Economy of India's Approach to International Rules

To better understand India's approach toward international rules, I argue that we need to grapple with the contingent political economy around international negotiations for a particular rule. By political economy, I am referring to three aspects – interests, institutions and interest groups; these three factors determine India's approach and tack at international negotiations and whether India ratifies the rule or not. What is critically important to cover is the broader politics around a particular international rule and how it affects India's overriding economic trajectory and security outlook. These domestic political factors constrain and condition India's behaviour toward international rules.

I argue that India's approach toward international rules is determined by three factors – what the core *interests* are toward a particular rule; how adeptly *institutions* like the bureaucracy, legislature and the executive effectively understand the policy problem being negotiated and adopt policy actions given core interests on the issue; and how effective domestic *interest groups* are in articulating their respective preferences to

institutions responsible for international negotiations and coordinate with them thereafter to secure policies in their favour. When the interests and objectives of the bureaucracy overseeing international negotiations and interest groups affected by the international rule converge, India will likely seek to shape and ratify the international rule. Conversely, when international rules clash with or compromise core interests of the Indian government and interest groups seeking to influence the government's position are putatively split on the rule, India will not be proactive at negotiations to influence the rule leading to possible rejection after negotiations.

It is important to stress that this thesis seeks to understand a problem in the study of Indian foreign policy. Till date, the literature on Indian foreign policy has uncovered how foreign policy is formulated and what some of the key driving factors are. Yet, certain gaps remain in describing how policy processes and various groups involved have contributed to foreign policy outcomes. In terms of multilateral negotiations, specifically, there is a dearth of coverage chronicling how the Indian government negotiates rules and treaties alongside other states, who takes the lead in overseeing such negotiations and whether there is a strategy behind India's approach at negotiations. Concretely, this thesis and the core problem looks at how various institutions, particularly the bureaucracy overseeing international negotiations and the executive and legislative branches, and interest groups have attempted to determine India's approach toward international rules and how, and if, that particular approach influenced the final outcome.

Importantly, this study is not framed as a problem in International Relations theory that could be pertinent to states like India due to concerns emanating from the applicability of IR theory to consider the core problem in this thesis. Historically, Indian scholars have sparsely engaged with International Relations theory that has been largely irrelevant and inapplicable given its inability to explain developments in Indian foreign policy. Some scholars feared that relying on IR theory could produce knowledge that would be, in effect, biased and divorced from the Indian context since most theoretical work in IR has generally been Eurocentric in nature.³ This situation led to the dominance of area studies and diplomatic history in works of Indian IR at the expense

³Mallavarapu, Siddharth. "Development of international relations theory in India." *International Studies* 46, no. 1-2 (2009): 165-183

of detailed theoretical and empirical work.⁴ Another consequence of this development has been the abundance of relational studies in Indian IR that describe India's relations with other countries.⁵

That said, some Indian scholars have attempted to link their research with broader IR debates. Two edited volumes on India and International Relations Theory by Kanti Bajpai and Siddharth Mallavarapu dealt with concerns related to realism, postcolonial theory, political economy, Marxism and how IR theories could help make sense of issues like the India-Pakistan conflict, Indo-Chinese border negotiations and using regime theory to help map India's international political economy.⁶ Unsurprisingly, 'high politics' issues related to war, security and nuclear weapons attracted much attention.⁷ In a related piece, E. Sridharan points out the paucity of Indian IR work exploring how domestic politics and developments from the subnational level affect Indian foreign policy; in his view, the unitary state approach that featured heavily in most Indian IR research has limited utility in the Indian IR context given the importance of domestic politics as an explanatory factor.⁸

Another key lacuna is the dearth of IR research on India's international political economy, India's approach at international regimes and institutions and regional cooperation. Taking the issue of international regimes and multilateral behaviour, core theoretical paradigms in IR theory – Realism, Constructivism and Institutionalism – presage that countries like India will either – not be interested in participating in

⁴Rana, A. P. "Reconstructing International Relations as a Field of Study in India: A Program for the Disciplinary Development of International Relations Studies." (1988).

⁵A large literature has emerged on this front with studies covering India's relations with major powers, South Asian countries, Southeast and East Asian countries and extra-regional countries like Israel, etc. Bajpai, Kanti. "Obstacles to good work in Indian International Relations." *International Studies* 46, no. 1-2 (2009): 109-128.

⁶Bajpai, Kanti P., and Siddharth Mallavarapu. *International Relations in India: Theorising the region and nation*. Vol. 2. Orient Blackswan, 2005.; Bajpai, Kanti P., and Siddharth Mallavarapu. *International Relations in India: Theorising the region and nation*. Vol. 2. Orient Blackswan, 2005. Also see, Mallavarapu, Siddharth. "Development of international relations theory in India." *International Studies* 46, no. 1-2 (2009): 165-183.; Bajpai, Kanti. "Obstacles to good work in Indian International Relations." *International Studies* 46, no. 1-2 (2009): 109-128.; Behera, Navnita Chadha. "Re-imagining IR in India." *International Relations of the Asia-Pacific* 7, no. 3 (2007): 341-368.

⁷Other notable high politics accounts of Indian IR include Basrur, Rajesh. 'International Relations Theory and Minimum Deterrence', in Sridharan, ed., 2007, *The India-Pakistan Nuclear Relationship*. New Delhi, Routledge, pp. 130; 146.; Rajagopalan, Rajesh. *Second strike: Arguments about nuclear war in South Asia*. Viking Penguin Books India, 2005.; Behera, Navnita Chadha. *International Relations in South Asia: Search for an Alternative Paradigm*. SAGE Publications India, 2008.

⁸Sridharan, Eswaran. *The India-Pakistan Nuclear Relationship: Theories of Deterrence and International Relations*. Routledge India, 2007, p. 26-29.

multilateral negotiations for structural reasons; will seek to cooperate within international institutions and organisations on policy issues due to rational motivations since the trade-offs for not doing so would be high; and finally that India would be socialised or persuaded to work with international organisations out of normative or value based reasons, not material interests per se.⁹ However, India's behaviour in this regard suggests that there is more to how and why India engages within international regimes than IR theory can reveal. Compounding this difficulty is that most IR research on international political economy and global governance focuses on Western countries whose experiences are generally inapt when it comes to understanding and explaining how a country like India behaves in the international order, particularly with respect to international rules.¹⁰

The empirical variation when observing India's multilateral behaviour suggests that we may need to focus more narrowly within the Indian state and probe its foreign policy to examine and explain why India behaves differently here. Moreover, the literature within IR theory covering rising powers, that could be relevant to explain India's behaviour in this context given consistent economic output and growth records, is curiously silent on the question of multilateral negotiations.¹¹ Scholars working in this paradigm have suggested that power transitions are generally characterised by war and simmering tensions between rising powers and less focused on issues of order and cooperation.¹² Put simply, power transition theory claims that rising powers like India will not be interested in negotiating international rules given their singular focus on

⁹Three main theoretical works covering theoretical coverage of international cooperation include Grieco, Joseph M. *Cooperation among nations: Europe, America, and non-tariff barriers to trade*. Cornell University Press, 1990.; Keohane, Robert O. *After hegemony: Cooperation and discord in the world political economy*. Princeton University Press, 2005.; Wendt, Alexander. *Social theory of international politics*. Cambridge University Press, 1999.;

¹⁰There is a large literature on international political economy that considers how domestic political factors influence state behaviour within international regimes and institutions. Some recent work has emerged on Chinese IPE in the last decade but, nonetheless, most theoretical and conceptual work focus on western countries in North America and Western Europe. See, Milner, Helen V. *Interests, institutions, and information: Domestic politics and international relations*. Princeton University Press, 1997.; Katzenstein, Peter J. *Small states in world markets: Industrial policy in Europe*. Cornell University Press, 1985.; Frieden, Jeffrey A. "Invested interests: the politics of national economic policies in a world of global finance." *International Organization* 45, no. 04 (1991): 425-451.; Rogowski, Ronald. "Commerce and coalitions: How trade affects domestic political alignments." *Princeton, NJ* (1989): 1965-1985.

¹¹ See A.F. K. Organski. *World politics* (New York City: Knopf, 1958) and A.F. K. Organski and Jacek Kugler, *The war ledger*. (Chicago: University of Chicago Press, 1981); Also see J. Diccio and J. Levy, "Power Shifts and Problem Shifts: The Evolution of the Power Transition Research Paradigm," *Journal of Conflict Resolution*, 43, 6 (1999): 677.

¹² Organski and Kugler, *The War Ledger*, 12-19.

economic growth and geopolitical competition. But this may not be the case. Consequently, considering this issue as an Indian foreign policy problem allows us to map and analyse whether and how domestic political factors compel countries like India to negotiate and ratify international rules.

Empirically, the thesis focuses on four case studies - Framework Convention on Tobacco Control (FCTC), Framework Convention on Climate Change (FCCC), Comprehensive Test Ban Treaty (CTBT) and the Uruguay Round Trade Agreement. While the cases are specific to India and the study of Indian foreign policy, the approach used here could, at some point, be deployed to study how other states that are similar to India, particularly rising powers like Brazil, China, etc., negotiate international rules. This possibility is explored in the concluding chapter. Now, it is important to ask why a new approach was needed to consider and explain India's approach to international rules. Before we do that, a brief look on definitions of the concepts used in the thesis.

Definitions

By *international rules*, I refer to international treaties and agreements, both legally binding and voluntary, that states collectively negotiate to address a mutually shared problem. Treaties and different types of international agreements are also referred to as *commitment rules*.¹³ These rules generally result in policy commitments that states reciprocally adopt to address a shared collective action problem. I adopt this definition and refer to commitment rules as *international rules* in this thesis. Defining international rules this way makes it easier to empirically measure how states behave toward them and map them accordingly. It is also important to distinguish international rules from *international institutions* and *international regimes* that do not form the focus of this thesis but are occasionally referred to as international rules. From an IR

¹³In the *World of Our Making*, Nicholas Onuf identifies three types of international rules - Instruction-rules that confer a particular status on people and institutions by drawing and assigning value to distinctions which define status groups or cohorts; Directive-rules that confers authority or set of rights and responsibilities usually arranged by rank within a particular organization; Commitment-rules that confer specific roles or commitments for organisations or states that are either voluntarily assumed or committed to. These rules are likely to take form through a multilateral treaty. See, Nicholas Onuf, *World of our making: rules and rule in social theory and international relations* (New York: Routledge, 2012), 116-119, 154.

standpoint, international institutions are defined as ‘sets of rules, norms, practices and decision-making procedures’ that allow states to iteratively interact and cooperate.¹⁴ International rules, seen this way, are a function of international institutions. International regimes are defined as ‘principles, norms, rules, and decision-making procedures around which actor expectations converge in a given issue-area.’¹⁵ Regimes are more expansive than institutions and rules, encompassing both and other aspects like norms, principles, conventions and other social practices that enable states to interact.

It is also important to define what an *international order* is. For Hedley Bull, an international order was equivalent to an ‘international society’ characterised by different forms of inter-state interactions that expand through time.¹⁶ Robert Gilpin instilled a heavy dose of hegemony into this idea. Gilpin argued that the international order amounts to a series of institutions and practices created by the hegemon, or the dominant state, ‘to advance particular sets of interests.’¹⁷ It is thus imposed; hierarchy, not anarchy, serves as the principal structural constraint for other states. Under hierarchical conditions, the relative capabilities of states and their economic trajectories affect their international position and behaviour. Gilpin also argues that governance of this order rests on three factors: distribution of power among leading states, hierarchy of prestige or authority to govern, and finally, set of rules and institutions that make up inter-state interactions.¹⁸ Of importance to this study is the third factor - how international rules are determined which this thesis focuses on. I adopt Gilpin’s definition of *international order* in this study to denote the *political* environment where states gather to negotiate international rules.

Research Design – Case Selection, Sources, Methodology

In Chapter 2, I have listed the entire universe of cases applicable and reasons behind why these cases were covered in this thesis. Briefly, I have chosen cases or international rules where India has taken a strong position on issues that have a bearing on its

¹⁴Robert. O. Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton, NJ: Princeton University Press, 1984), 5-6.

¹⁵Stephen D. Krasner, *International Regimes* (Ithaca: Cornell University Press, 1983), 1.

¹⁶Hedley Bull, *The Anarchical Society: A Study of Order in World Politics* (London: Palgrave, 2002), 8.

¹⁷Robert Gilpin, *War and Change in World Politics* (New York: Cambridge University Press, 1983), 9-10.

¹⁸Gilpin, *War and Change*, 10.

national security and economic prosperity and where it is possible to discern the contingent political economy around the issue to determine why and how India negotiated the rule and whether it ratified the rule. The four rules on which I track India's behaviour are the 2004 Framework Convention on Tobacco Control (FCTC); 1992 Framework Convention on Climate Change (UNFCCC); 1996 Comprehensive Test Ban Treaty (CTBT); and the 1994 Uruguay Round Trade Agreement.

Some of these cases have been covered by International Relations scholars and other literatures and their choice here might appear as redundant. But for two reasons they are appropriate. First, I have focused on cases that show differences insofar as Indian behaviour toward international rules are concerned. On climate change, India has shown a zeal to establish and entrench certain principles to manage the problem internationally, importantly the need to differentiate climate responsibilities among countries based on historic emission contributions even as this position has evolved since 1992. However, this energy is not witnessed on two other cases – trade negotiations at GATT under the Uruguay Round and at negotiations leading to the FCTC, where India worked with certain constraints to shape rules. On nuclear disarmament, i.e. CTBT, India contested and rejected the treaty after initially endorsing it. Given the range and variation of the cases, there is leeway to test the framework and hypotheses to make sense of India's behaviour. All four cases covered are also important to India's economic or security interests. As a result, negotiating these rules should elicit clear involvement from key political actors, both state institutions and non-state actors, allowing us to trace and analyse their actions. The policymaking context is generally comparable in the four cases given the time period which facilitates the task of assessing how state institutions and interest groups behave before and during international negotiations.

Methodologically, I have relied on process tracing to chart and explain how India negotiated these rules. Then, to generate findings given the research objectives of the thesis, I employ the method of structured-focused comparison that has been widely used to study historical experiences to build generic knowledge of particular foreign

policy challenges.¹⁹ Scholars have used this method to study issues like nuclear deterrence to generate generalised knowledge of the phenomena by asking specific questions to a series of cases.

I have relied on a variety of sources for this thesis. First, I have consulted and drawn from several internet archives and one institutional archive (Wellcome Trust Library) detailing how negotiations transpired on each of the rules with an emphasis on India's behaviour there. For the FCTC, I have drawn from the Wellcome Trust's Global Health Archives in London and two internet archives - World Health Organization's records of FCTC negotiations and the International Tobacco Control archives that are virtually housed at the University of California San Francisco; FCCC – I have drawn from two internet archives - UNFCCC Secretariat that holds records of FCCC negotiations and UN General Assembly archives; Uruguay Round Trade Agreement – I have drawn from GATT's internet archives virtually housed at Stanford University where details of negotiations on each GATT round can be accessed; CTBT – I have drawn from the Conference on Disarmament and UN Disarmament Commission's archives where the records of CTBT negotiations are housed. To gather how the Indian parliament acted or reacted toward these rules, I have drawn from the records of Indian Lok Sabha (lower house) and Rajya Sabha (upper house). Second, I conducted interviews with 20 officials and stakeholders that have shaped India's position at negotiations or have an intimate understanding of the context and rule being negotiated. This list includes former government officials, diplomats, officials from international organisations and non-governmental organisations, think-tank practitioners, academics and journalists. I have managed to speak with members that were a part of the Indian delegation at all four negotiations including officials (FCCC and FCTC cases) who served as chief negotiators. It is important to mention that deducing from elite interviews can be risky. Ethically, researchers have to be mindful of certain implications when conducting and documenting interviews. In the next chapter, I elaborate on how I am planning to use the interview method, the measures taken to insure against bias and

¹⁹For a good overview of Structured-Focused Comparison, see Alexander L. George and Andrew Bennett, *Case Studies and Theory Development in the Social Sciences* (Boston: MIT Press, 2005), 67-73. Also see Alexander L. George, "Case Studies and Theory Development: The Method of Structured Focused Comparison." in *Diplomacy: new approaches in history, theory, and policy*. ed. Paul Gordon Lauren (New York: Free Press, 1979), 43-68. To get a good understanding of Process Tracing see David Collier, "Understanding process tracing," *PS: Political Science & Politics* 44, 04 (2011): 823-827.

how I plan to manage the ethical considerations. Near the end of this thesis, I have appended an annexure with details of interviews conducted.

Structure of the Thesis

This thesis demonstrates that India does have a good understanding of what its core interests are before heading into negotiations covering international rules. In other words, there is a strategic logic to how India behaves on multilateral issues and, in particular, international rules. Moreover, there are clear and identifiable domestic sources that precipitate stances taken during negotiations leading to the eventual outcome. Here, the central argument focuses on the political economy around negotiations for particular rules to make the point that *interests, institutions and interest groups matter* in generating the approach taken by the Indian delegation at negotiations and the decision thereafter to either ratify the rule or not. Simply put, Indian negotiators have a strategy at negotiations determined by institutional knowledge around the issue being negotiated and political support given by relevant interest groups domestically affected by the rule. The findings of the thesis reveal that India can strategically think through and address foreign policy issues, something that scholars like George Tanham and K.Subrahmanyam have argued against.²⁰ The four case studies in subsequent chapters that sketch the process through which India negotiates international rules demonstrate that key state institutions like the executive, bureaucracy and the legislature have the ability to marshal a pertinent approach and Indian negotiators can ably articulate and defend positions at negotiations given core interests on the issue.

After this introduction, Chapter two delves into the literature review covering pertinent debates in Indian foreign policy, elaborates more on the research design and approach adopted and states the ethical considerations involved in the research.

Chapter three considers India's ratification of the Framework Convention on Tobacco Control (FCTC). Indian health officials realised it was in their interest to negotiate a tough framework convention to stem the rising tobacco use problem at

²⁰Tanham, George K. *Indian Strategic Thought*. Rand Corporation, 1992.; Also see Inder Malhotra, 'Our Strategic Asset,' Indian Express, 3 February 2011 to see why K.Subrahmanyam thinks India's foreign policy is strategically bereft.

home. The Indian health ministry acquired a robust understanding of domestic tobacco use having worked extensively with tobacco control advocates to pass and enact a comprehensive tobacco control law – COTPA. The thrust at home coincided with FCTC negotiations where Indian health officials exported the strong domestic approach to shape the core of the FCTC, prioritising tobacco regulation and control over tobacco production and promotion. The Prime Minister and health ministers politically backed tougher tobacco control at home and abroad. Various domestic tobacco control groups simultaneously worked to inform Indian health officials to pass COTPA at home and negotiate a tough FCTC abroad.

Chapter four looks at India's ratification of the Framework Convention on Climate Change. India's interests vis-à-vis climate change were not clearly laid out given internal knowledge gaps on the issue. Research on climate change moved developed countries to call for global action to mitigate rising carbon emissions. But this objective was thwarted by developing countries at FCCC negotiations led by India. At negotiations, the Indian delegation sought to entrench an alternate agenda that was informed by a political view of global warming that stressed equity and justice. Under this approach, the goal was to exempt developing countries from accepting climate mitigation commitments of any sort given historical emission patterns. This tack was supported and refined by two Indian environmental groups – Tata Energy Resources Institute and Centre for Science and Environment who pushed Indian negotiators to tilt the climate change discourse toward the interests of developing countries.

Chapter five explores India's rejection of the Comprehensive Test Ban Treaty. At the outset, Indian negotiators pushed for a strong test ban agreement that banned nuclear tests for all. But this view was consistently snubbed by nuclear weapon states who wanted to retain some space within the treaty for ancillary tests. The Indian delegation gradually shifted its outlook and positions on the treaty once it became clear their positions were ignored and interests were undermined. Several groups and interests sought to influence the government's position and approach at negotiations but their advocacy was blunted by fragmentation and variant positions on the treaty that spanned from accepting the treaty unconditionally to accepting under certain conditions and rejecting the agreement altogether given how negotiations snubbed Indian concerns

and undermined Indian interests. After they received political consent, Indian officials rejected the treaty.

Chapter six covers India's ratification of the Uruguay Round Trade Agreement. India ratified the trade agreement having understood the implications of international trade barriers being imposed on Indian firms coupled with concerted advocacy from business lobbies representing those firms given material benefits that stood to be incurred from market access concessions at trade negotiations. This focus led to a prioritised agenda at the Uruguay Round captured by a desire to secure additional foreign market access, protect space for domestic subsidies and engage cautiously on trade in services and intellectual property rights. The senior political leadership in the government endorsed this tack and so did several business lobbies representing domestic industry both keen on deepening liberalisation.

The conclusion in Chapter seven describes the key findings of the thesis and their implications toward the literatures covering India's multilateral behaviour and rising powers and explores whether we might need a new conceptual approach to deduce the behaviour of states like India that have systemic effects due to their economic size and output but are also, concurrently, developing countries constrained by fragile institutional and political capabilities.

Chapter Two – How does India Negotiate?

Political Economy of India's Approach toward International Rules

India's approach toward international rules is not monolithic. The literature on India's multilateral behaviour does not rigorously probe the factors that affect how India negotiates international rules and why India ratifies certain rules but not all. Moreover, the literature also does not capture the texture of how India negotiates such rules and how the negotiating approach influences the decision to ratify or reject the rule. As a result, India's behaviour in this regard merits further scrutiny and explanation.

Such international rules have an impact on India's growth trajectory and broader security outlook. Rules are generally negotiated within international regimes or organizations that cover that particular issue. Powerful states like the United States normally have more sway in setting the agenda for international negotiations on key issues but that does not negate the role nor impact that other states like India can have. No doubt, developing countries like India do face domestic constraints that vary from that of the United States. But states like India do not remain passive nor should they be expected to be given their own interests on a proposed rule and the potential impact it could have on India's development. But how does India behave and what factors contribute to India's behaviour with respect to international rules? Very few detailed case studies exist that probe how and why India negotiated international rules and whether that process lead to ratification or not.¹

In this thesis, I find that there is variation to India's behaviour in this regard that are caused by certain institutional and political factors. What matters to India's approach vis-à-vis international rules is the political economy surrounding India's

¹There is very little detailed empirical work exploring how India negotiates particular international rules. The literature here focuses on issues (trade, climate change, nuclear disarmament, World Bank), etc with a focus on describing the rationale behind India's behaviour. However, there is little empirical work connecting the strategy adopted at negotiations, reasons for adopting that approach and how it leads to eventual outcome, ratification or not. To be sure, there are some practitioner (Ghosh) accounts that detail how that particular individual conducted negotiations but these accounts do not capture the totality of negotiations from an Indian perspective. For practitioner accounts, see Ghose, Arundhati. "Negotiating the CTBT: India's security concerns and nuclear disarmament." *Journal of International Affairs* (1997): 239-261.; Reddy, K. Srinath, and Prakash C. Gupta. "Tobacco control in India." *New Delhi: Ministry of Health and Family Welfare, Government of India* (2004): 43-47.

negotiation of these international rules. I focus on three particular aspects of the political economy – interests, institutions and interest groups. It is vital to map how key state institutions and domestic interest groups act and react and how they determine India's core interests toward a particular rule. State institutions that interface on international negotiations greatly affect how India negotiates a particular international rule. Concretely, it is worth investigating if the ministry overseeing negotiations has a robust understanding of the policy problem necessitating negotiations and is able to coherently present and defend incumbent interests. Influencing state institutions during this process are relevant domestic interest groups that were or stood to be affected by a particular international rule, which, at times, triggers their advocacy to influence the government's approach at negotiations. In the end, ratification or rejection of an international rule hinges on how key institutions and interest groups internally negotiate the incumbent trade-offs accompanying the rule. Political economy matters to explain how India negotiates international rules and why it ratifies or rejects them. Below, I reveal the contributing factors that help explain India's approach toward international rules.

Interests Matter

When the Indian government has a clear interest in a rule being negotiated, they will be more inclined to negotiate and draft core provisions alongside other states. Interest is generally driven by the propensity of the rule to advance India's security or economic interests. For instance, India's desire to negotiate a strong Framework Convention on Tobacco Control was driven by the urgent need to curb tobacco use at home. Similarly, India's focused approach at GATT's Uruguay Round trade negotiations was shaped by the exigent need to open up foreign markets for Indian exporters. When interests are not clearly specified or unclear, India's approach varies at negotiations. As negotiations for a Framework Convention on Climate Change commenced, India was initially unsure how to best position itself since incumbent trade-offs on the issue were not sufficiently clarified. Interests can also change and evolve during negotiations that could affect India's approach at negotiations and eventual decision. When nuclear weapon states moved to shift the focus of the Comprehensive Test Ban Treaty away from disarmament for all to disarmament for some, India's interests and approach shifted to

avoid signing a treaty that harmed India's core interest of reducing the nuclear gap between nuclear weapon states and non-nuclear weapon states.

Institutions Matter

Interests are articulated as objectives or positions to achieve at international negotiations by key political institutions. Generally, the bureaucracy, in charge of negotiations for India, leads in presenting and defending India's interests at negotiations supported by the legislative and executive branch that are keen to craft provisions of that rule. What matters here is the bureaucracy's ability to deftly understand the policy problem being negotiated and how it affects India. When that policy awareness is robust, institutions will be in a better position to negotiate the details of international rules and secure an agreement that advances India's interests. On tobacco control, the Indian health ministry's solid awareness of tobacco use in India and how it affected certain vulnerable segments of the population helped Indian negotiators craft strong tobacco control provisions in the framework convention. Likewise, the knowledge Indian trade officials acquired on protectionism around certain goods like textiles and services aided their efforts to negotiate and ratify a slew of trade agreements that secured additional market access for Indian exporters. Conversely, when capacity on a policy issue is limited given internal knowledge deficits, it complicates the ability of Indian negotiators to capably articulate India's position that, in turn, affects India's contributions to negotiations and possibly ratification. Complexities around global warming and how the problem affected India made it more difficult for Indian diplomats and environmental officials to proactively shape a strong framework convention on climate change, which resulted in an agreement that was weak in terms of carbon emissions reduction commitments from member states.

Interest Groups Matter

Interest groups also matter in determining how India negotiates international rules. Interest groups in India range from business lobbies and associations to more policy focused entities like think tanks, non-governmental organisations and other related groups. Within the domestic political ambit, interest groups generally work to lobby for or against policies that could harm their material or institutional interests. When

relevant interest groups involved on a specific policy issue endorse an international rule and convey their preferences to the bureaucracy negotiating that rule, the Indian government will be more likely to shape and ratify the rule. At times, interest groups buttress the bureaucracy's knowledge and understanding of the policy problem underpinning negotiations, which increases the prospects of proactive engagement and possible ratification should the rule advance India's interests. When tobacco control groups provided advice and counsel to the Indian health ministry on negotiations and how the proposed framework convention affected India, health officials were more inclined to push for a strong treaty that constrained tobacco use worldwide. Similarly, on trade and climate change negotiations, interest groups working on both issues compelled government negotiators to adopt particular stances given how their understanding of how India was affected by the rule which aligned with existing government thinking on both issues. The convergence led to India's ratification of both rules. Conversely, when interest groups appear fragmented and do not deftly articulate their preferences to the bureaucracy given possible uncertainties around a rule, it could affect how the government negotiates the rule and the approach taken thereof. The range of split opinions on the CTBT gave the Indian government more leeway to determine whether to ratify the rule given uncertainties around how the treaty harmed Indian interests. If there is sufficient internal consternation around the rule and of possible risks through accession, ratification is unlikely.

India's approach toward international rules is shaped by three factors – *interests, institutions and interest groups* that constitute the political economy around multilateral negotiations. Each of these factors affect how India negotiates international rules and whether India ratifies or rejects the rules. Simply put, India's approach toward international rules is shaped by *institutional factors* within the state that determine the national interest – executive consent, legislative support and bureaucratic leadership and *political factors* or how domestic interest groups influence state behaviour. This characterisation allows me to ask the key question this thesis is interested in: how does India negotiate international rules and what factors explain India's behaviour in this regard? I move to consider this question by looking at the literature on Indian foreign policy in the next section.

This chapter will first explain why the literature on Indian foreign policy was reviewed to tackle the problem covered in this study. Next, I survey the relevant conceptual areas that could help us better understand India's approach toward international rules with a focus on political economy or the role of interests, institutions and interest groups. I begin by reviewing the literature on Indian multilateralism to get a sense of India's desire in negotiating international rules and treaties. Following that, I move to consider whether there was a strategic logic driving Indian foreign policy that could help explain India's approach. Then, I focus on what the literature tells us about political institutions, specifically the executive, parliament and political parties and the bureaucracy, to gauge if they are relevant to how India negotiates international rules. Finally, the review covers the role that interest groups like business associations, think tanks and universities, media and the diaspora play in the determination of foreign policy and whether they have a role and policy space in setting the Indian government's agenda on multilateral issues like climate change, international trade, etc. After this literature review, I move to explore the gaps in the literature in these areas and ascertain whether there is adequate scope to fill these gaps in this study. After elucidating the gaps, I move to elaborate the research design that lists cases covered in the study and explains why they were chosen, the sources and materials used, methods used to analyse data and yield findings, the limitations of the methods and the ethical implications associated with the methodological choices.

Indian Foreign Policy – Existing Literature

The literature on Indian foreign policy is instructive to survey for two reasons. First, India's approach to international rules and other multilateral issues is a subset of India's foreign policy and it is important to consult whether there is sufficient explanatory bandwidth to consider and explain the problem considered in this thesis. Moreover, we need to unpack what the fundamental characteristics – both institutional and political - of Indian foreign policy are to gauge their relevance and utility in the context of this study. The explanatory power of approaches from International relations theory or standard foreign policy analysis approaches could vary when analysing issues or cases

exclusive to Indian foreign policy.² In other words, contextual differences could complicate this process of inquiry. It is worth reviewing the literature on Indian foreign policy since the institutional and political context under which foreign policy is formulated and implemented in India is distinct. Policy processes may differ. The study of Indian foreign policy could differ from that of other countries which merits a closer look at how foreign policy made in India and what the fundamental elements are. Conceptually, for instance, it might be difficult to transport categories or concepts from other literatures since the nature of Indian foreign policymaking and Indian politics tend to be distinct from conventional, more liberal, political categories. Surveying the literature allows us to trace and apply concepts that have relevance to the problem being studied. More importantly, the literature could provide pointers or hints to categories that could guide the process of inquiry. Euro-centric conceptual approaches may not adequately explain foreign policy decisions made by the Indian government since the political and institutional context is markedly different and the ways in which political institutions operate will probably differ. For instance, the avenues available for influencing political institutions in India tend to be limited which may not be the case in the United States or Western Europe where access is more liberal in this regard.³ We need to be sensitive to the context here.

And second, there are methodological and data availability constraints to be mindful of when considering and analysing issues of Indian foreign policy. Most Indian foreign policy analyses rely on newspaper reports and clippings, interviews and available policy documents. Public opinion polls and surveys on core foreign policy matters are generally rare. A better understanding of data and methodological constraints compels us to be innovative and use a mix of various methods to tackle research objectives. For instance, there is very little work mapping key political institutions and their impact over Indian foreign policy; this lacuna makes it worthwhile

²For a good overview of the gaps between International relations theory and Indian foreign policy, see Bajpai, Kanti. "Obstacles to good work in Indian International Relations." *International Studies* 46, no. 1-2 (2009): 109-128. Standard foreign policy analysis is a subbranch within political science that studies how a state makes foreign policy. In the field, it is generally understood that foreign policy is made through a rational linear process composed of several stages where various groups and actors make sense of problems and devise approaches to achieve policy objectives. A classic study in this field is Graham Allison's book on the Cuban missile crisis. See, Allison, Graham T., and Philip Zelikow. *Essence of decision: Explaining the Cuban missile crisis*. Vol. 2. New York: Longman, 1999.

³ See Baru, Sanjaya. "The Influence of business and media on Indian foreign policy." *India Review* 8, no. 3 (2009): 266-285.; Kochanek, Stanley A., and Robert L. Hardgrave. *India: Government and politics in a developing nation*. Cengage Learning, 2007.

to investigate how institutions affect and constrain foreign policy.⁴ There is a clear opportunity to be methodologically innovative to advance the growing corpus of Indian foreign policy. Next, I move to review the literature relevant for this thesis.

The literature on Indian foreign policy has grown to cover nearly every facet of India's political, economic and military engagement with other countries, international and regional organisations and emergent plurilateral and minilateral initiatives that affect India's diplomatic interests.⁵ Scholars have used various approaches and paradigms to explain why India behaves the way it does and what drives India's foreign policy. In this review below, I map the literature around three conceptual arcs – focusing on interests and strategy, institutions and interest groups. After mapping these themes, I identify a few key gaps before moving toward a new approach focusing on why and how India negotiates foreign policy with a specific focus on international rules that follow in subsequent chapters.

Interests

Indian Multilateralism

Given the empirical focus and research objectives of this thesis, it is instructive to first review the literature on Indian multilateralism and how it covers India's approach within international regimes and international rules. The key question is whether India is open to participating within international regimes to address salient multilateral issues? Historically, India has been a keen supporter of the United Nations, raising awareness of issues and problems pertinent to developing countries.⁶ Several historical

⁴ Sinha, Aseema. "Understanding change and continuity in India's foreign policy." *International Affairs* 93, no. 1 (2017): 189-198.

⁵ Though impossible to chart the entire literature, it is possible to identify certain recent volumes that cover this subject which testifies to the growing portfolio of Indian foreign policy that includes bilateral relations with major powers, neighbours and other key regional states, multilateral relations, growing impact of domestic politics on foreign policy, institutional impact on foreign policy and how history has shaped the evolution of India's foreign policy. Some recent compendiums on the subject include Malone, David M., C. Raja Mohan, and Srinath Raghavan, eds. *The Oxford Handbook of Indian Foreign Policy*. OUP Oxford, 2015.; Scott, David, ed. *Handbook of India's international relations*. Routledge, 2011.; for a good overview of India's multilateral relations, see Sidhu, Waheguru Pal Singh, Pratap Bhanu Mehta, and Bruce D. Jones, eds. *Shaping the emerging world: India and the multilateral order*. Brookings Institution Press, 2013.; Two good overviews of the subject that covers most key foreign policy issues include Ogden, Chris. *Indian Foreign Policy*. John Wiley & Sons, 2014, and Malone, David. *Does the elephant dance?: contemporary Indian foreign policy*. Oxford University Press, 2011.

⁶ Stanley Kochanek. "India's changing role in the United Nations." *Pacific Affairs* 53, 1 (1980): 48-68.; For an evolutionary perspective on Indian multilateralism, see C. Raja Mohan, "The Changing Dynamics

accounts chart India's record in the United Nations, emphasising the vigour with which India participated toward issues like development cooperation, decolonisation and human rights.⁷

Some scholars believe a shift has taken place with the end of the cold war in terms of India's multilateral behaviour that has become more proactive marked by a desire to work with international organisations to propel the growing economic trajectory at home. Ramesh Thakur claims that liberalisation at home has engendered an India that is willing to engage more openly with international organisations having now understood the economic gains accrued from clearing international bottlenecks particularly on issues like international trade and foreign investment.⁸ On the other hand, C. Raja Mohan argues that India's shift post-liberalisation was *normatively* driven in that India, having now realised its interests reside in the international order, has decided to exert its contributions to the provision of global public goods to help address emergent problems like global warming, trade protectionism and nuclear proliferation, etc.⁹ Mohan's argument expands from pure convergence to posit that India has become more willing to shoulder additional burdens in areas even where benefits might not be clear or imminent. Interests exist, in other words, but they are now balanced by normative pressures. Both Thakur and Mohan do not probe specific issues in depth to build their argument but instead make judgments based on how they see India behave within international regimes.

Departing from Thakur and Mohan, Amrita Narlikar argues that India's multilateral approach and behaviour hinges on the political strategies used at negotiations. Narlikar focuses on specific negotiation strategies to explain India's

of India's Multilateralism," *Shaping the Emerging World: India and the Multilateral Order* ed. W.P.S. Sidhu et al. (Washington, DC: Brookings Institution, 2013), 25-42.

⁷Swadesh Rana, "The changing Indian diplomacy at the United Nations," *International Organization* 24, 1 (1970): 48-73.; Manu Bhagavan, *The Peacemakers: India and the Quest for One World* (New Delhi: Harper Collins, 2012); Mark Mazower, *No enchanted palace: the end of empire and the ideological origins of the United Nations* (Princeton, NJ: Princeton University Press, 2009), 149-190.

For an overview of India's record and experiences as part of the Non-Aligned Movement and Global South broadly, see Chapter 3 and 4 in Vijay Prashad, *The poorer nations: A possible history of the global south* (London: Verso Books, 2013);

⁸Ramesh Thakur, "India in the world: Neither Rich, nor Powerful, nor Principled," *Foreign Affairs* 76, 4, (1997): 16-22; and Ramesh Thakur, *The Politics and Economics of Indian Foreign Policy* (London: Hurst, 1994)

⁹C. Raja Mohan. "Rising India: Partner in Shaping the Global Commons?" *The Washington Quarterly* 33, 3 (2010): 133-148.

approach on specific issues like international trade and disarmament. For Narlikar, liberalisation has not, altogether, altered India's multilateral persona which, in her view, is characterised by cultural traits like prickliness, inflexibility and an inveterate need to moralise.¹⁰ Narlikar claims that Indian negotiators settle on two strategies, either distributive or integrative, to further India's interests at international negotiations. Distributive strategies are used to extract benefits from international negotiations and other member states without yielding commensurately in return. Politically, this strategy involves highlighting India's challenges as a developing country to justify the need for special concessions. For instance, at trade negotiations, India attempts to secure various trade concessions like tariff reductions from other countries whilst refusing to provide reciprocal market access in return given expected losses to Indian firms and producers. Indian negotiators use integrative strategies to build coalitions uniting other developing countries within international regimes to increase their bargaining power against developed countries. The integrative approach rests on leverage gained from strength in numbers when negotiating tough provisions on issues like market access or subsidies. Invariably, given these two strategies, what is perhaps most prominent here when analysing India's multilateral approach is the defensive tone adopted to protect and advance core national interests.

But is this defensive and, at times, hectoring, tone of Indian negotiators a product of international regimes where negotiations take place or are they culturally or institutionally ingrained? Recently, Narlikar updated her earlier claim by tracing certain cultural traits shaping India's prickly approach at international trade negotiations that she argues date back to the historical epic - *The Mahabharata*.¹¹ The argument essentially attributes India's behaviour within international regimes to certain longstanding domestic traits that then produce various strategies to achieve core interests. Stephen Cohen and David Malone argue that this behavioural trait is not caused by historical epics alone but are also a product of institutional environment in the Ministry of External Affairs in New Delhi. Cohen emphasises cultural factors to explain the defensiveness of Indian diplomats but attributes these tendencies to the

¹⁰Amrita Narlikar, "India Rising: Responsible to Whom?" *International Affairs* 89, 3 (2013): 595-614.; Amrita Narlikar, "Peculiar Chauvinism or Strategic Calculation? Explaining the Negotiating Strategy of a Rising India," *International Affairs* 82, 1 (2006): 59-76.

¹¹The Mahabharata is a classic Sanskrit text that describes a tale of two warring clans who strive to fight for the public good. See Amrita Narlikar and Aruna Narlikar, *Bargaining with a Rising India: Lessons from the Mahabharata* (New Delhi: Oxford University Press, 2014)

institutional culture at the Ministry of External Affairs (MEA). David Malone largely concurs by claiming that India's caution toward multilateral issues stems from a desire to protect sovereignty at all costs.¹²

Such conceptual accounts are accompanied by myriad scholarly works that map India's behaviour on specific multilateral issues like climate change¹³, international law and justice¹⁴, human rights¹⁵, finance¹⁶, international trade¹⁷ and nuclear disarmament.¹⁸ A recent edited volume on Indian multilateralism comparatively mapped and explained India's positions on a range of multilateral issues.¹⁹ Broadly, the volume posits that India's interests have grown in the international order that merits more robust engagement with international rules and organizations, independent of whether it might be prudent to do so.²⁰

What is clear from the literature on Indian multilateralism is that the Indian government has demonstrated a desire to participate widely within international regimes and organisations and negotiate international rules. Moreover, all these scholars implicitly claim that India has a broad *interest* in *negotiating* international rules despite

¹²Stephen P. Cohen, *Emerging Power: India* (Washington, DC: Brookings Press, 2001), 74; David Malone, *Does the Elephant Dance: Contemporary Indian Foreign Policy* (New York: Oxford University Press, 2011), 249-273. In a recent article, Kate Sullivan argues that such moralising tendencies in Indian diplomacy has clear historical and ideational foundations, namely Hindu renaissance thinkers like Vivekananda, struggles towards political independence and the legacies of the Indian foreign service. See Kate Sullivan, "Exceptionalism in Indian Diplomacy: The Origins of India's Moral Leadership Aspirations," *South Asia: Journal of South Asian Studies* 37, 4 (2014): 652.

¹³Navroz K. Dubash, "Of Maps and Compasses: India in Multilateral Climate Negotiations," in *Shaping the Emerging World: India and the Multilateral Order*, ed. W.P.S. Sidhu et al, (Washington, DC: Brookings Institution, 2013), 261-280.

¹⁴Bimal N. Patel, *India and International Law: Introduction*. Vol. 2. (Leiden, NL: Martinus Nijhoff Publishers, 2008)

¹⁵Manu Bhagavan, "A New Hope: India, United Nations and the Making of the Universal Declaration of Human Rights," *Modern Asian Studies* 44, 2 (2010): 311-347.; Bhagavan, *The Peacemakers: India and the Quest for One World*, 1-4.

¹⁶John Echeverri-Gent, "Financial Globalization and India's Equity Market Reforms," *India Review* 3, 4 (2004): 306-332.; Jason Kirk's work details India's relationship with the World Bank. See Jason. A. Kirk, *India and the World Bank: The Politics of Aid and Influence* (London: Anthem Press, 2011)

¹⁷Narlikar, *Peculiar Chauvinism or Strategic Calculation? Explaining the Negotiating Strategy of a Rising India*, 59-76; Andrew Hurrell and Amrita Narlikar, "A New Politics of Confrontation? Brazil and India in Multilateral Trade Negotiations," *Global Society* 20, 4 (2006): 415-433.; Narlikar, *India Rising: Responsible to Whom?* 595-614.

¹⁸Dinshaw Mistry, *India and the Comprehensive Test Ban Treaty* (Chicago: University of Illinois at Urbana-Champaign, 1998); Andrew B. Kennedy, "India's Nuclear Odyssey: Implicit Umbrellas, Diplomatic Disappointments, and the Bomb," *International Security* 36, 2 (2011): 120-153.

¹⁹W.P.S. Sidhu, P.B. Mehta, and Bruce D. Jones, *Shaping the Emerging World: India and the Multilateral Order* (Washington, D.C., Brookings Institution Press, 2013)

²⁰*Ibid*, 12.

the persistence of certain distinct cultural traits and strategies deployed to achieve core interests.

Strategy

Now that we have recognised that India has an interest in negotiating multilateral issues, it is pertinent to ask whether interests are derived from an overarching foreign policy strategy or template to get a better sense of the considerations compelling India to behave differently when negotiating international rules.

Is it possible to trace a strategic doctrine or template guiding how Indian policymakers devise foreign policy? Kanti Bajpai argues that there exists a loosely defined 'strategic culture' consisting of three distinct streams of thought – Nehruvians, Neo-Liberals and Hyper-realists that serve the core drivers of India's foreign policies.²¹ Each of these three streams advocate different precepts or 'grand strategic prescriptions' intended to advance India's core interests.²² All three streams operate on a few basic assumptions – the primacy of a sovereign state; states are fundamentally rational in pursuing their national interests; and that all states seek to accumulate power through military and economic means.²³ Beyond these assumptions, the streams differ in what they posit. Nehruvians, Bajpai claims, prefer cooperation and compromise over conflict and are marked by a proclivity to rely on international institutions, laws and negotiations to prosecute interests and resolve claims.²⁴ War, simply put, is futile and avoidable. Neoliberals, on the other hand, emphasise economics or commercial and trade relations relative to military power; they believe that economic gains buttress military strength and advance national security.²⁵ The hyperrealists view international relations in Manichaeian terms filled with threats and risks to be mitigated through military strength.²⁶ Bajpai provides a broad template of considerations affecting India's strategic choices in the foreign policy domain. Problematically, however, there is no

²¹Bajpai contends that that these three streams constitute India's strategic culture in the post cold war period. Bajpai defines strategic culture loosely as 'identifiable set of assumptions about the nature of international relations' given George Tanham's famous claim that Indian elites have not thought deeply about strategy in foreign affairs. See, Bajpai, Kanti. "Indian strategic culture." *South Asia in 2020* (2002): 245-304. To get Tanham's view see, Tanham, George K. *Indian Strategic Thought*. Rand Corporation, 1992.

²²Ibid, 250.

²³Ibid, 251.

²⁴Ibid, 252.

²⁵Ibid.

²⁶Ibid, 253.

clear way to empirically track and demonstrate if and how postulates of Bajpai's three streams drive foreign policy or shape state preferences; moreover, doubts remain as to whether these views are mutually exclusive. At best, the streams and core precepts serve as generic statements reflecting certain aspects of Indian foreign policy. More fundamentally, it is difficult to deductively infer what India's interests are from broad strategic precepts. Instead, we could empirically gather what India's specific interests are given the issue at hand.

The need to identify what India's interests are on particular issues is rendered important from works that repudiate notions that India is aware of its interests and able to devise a strategy to achieve its objectives. Harsh Pant argues that India's foreign policy, particularly relations with the United States and Afghanistan, has been characterised by ad-hocism, plain incoherence and an inability to articulate what the vital interests are.²⁷ In other words, there is no *identifiable* strategy driving foreign policy. Broadly, Pant contends that Indian foreign policy since the end of the cold war has been 'reactive to the strategic environment rather than attempting to shape the strategic realities.'²⁸ Instead Pant identifies an inability to adapt just when India is poised to play a role as a major power given rising material capabilities. Pant also identifies a gap between India's desire to project itself a major power and the demands that desire imposes particularly in South Asia.²⁹ Regional tensions, Pant argues, have placed India in a bind, ill-equipped to respond to concerns of its neighbours while being pilloried as aggressive when steps are taken; this predicament, Pant claims, has made India defensive, diffident to shape events in its periphery just as pressures beyond it impinge on its strategic space to effect change. With respect to the UPA's foreign policy, Pant attributes some of its incoherence to 'organisational dysfunction and risk averseness' but also identifies the Congress Party's historic affinity to non-alignment as another factor.³⁰ Generally, Pant views India's foreign policy, with an inordinate focus

²⁷Pant, Harsh V., and Harper Collins. *India's Afghan Muddle: A Lost Opportunity*. 2014, 3-7.; Also see Pant, Harsh V. "A rising India's search for a foreign policy." *Orbis* 53, no. 2 (2009): 250-264.

²⁸*Ibid*, 251-252.

²⁹Pant, Harsh V. "India in the Indian Ocean: Growing mismatch between ambitions and capabilities." *Pacific Affairs* 82, no. 2 (2009): 279-297

³⁰Harsh Pant argues that India's approach, under the United Progressive Alliance (UPA) government, proved largely fitful driven by a sense of caution that set India back in terms of devising a strategy to manage growing strategic risks across the Asia-Pacific defined by China's rise.³⁰Pant, Harsh V., and Julie M. Super. "India's 'non-alignment' conundrum: a twentieth-century policy in a changing world." *International Affairs* 91, no. 4 (2015): 747-764. Also see, Pant, Harsh V., and Yogesh Joshi. "Indian Foreign Policy Responds to the US Pivot." *Asia policy* 19, no. 1 (2015): 89-114.

on the UPA government, as adrift, intellectually and strategically bereft in terms of responding to a rapidly shifting geopolitical terrain across the Asia-Pacific.³¹ The gulf between Bajpai's claim of a strategic culture and Pant's strategic deficit argument provides a space for scholars to mine to get better grasp of identifying a strategy derived from clearly mapped interests. In fact, using a historical approach to map India's interests and strategy could retrieve an empirical reality that could help rethink analytical claims made on how India conducts its foreign policy.

Institutions

Executive Leadership

How are India's interests on a particular issue translated into strategy or series of actions? Interests and strategic considerations can be traced and mapped through institutions that manage Indian foreign policy. A focus on institutions and the policy process can help in revealing how interests shape strategies adopted by Indian officials at international negotiations. What matters here are the institutional features of Indian foreign policy and how these particular institutions affect India's behaviour on specific issues.

There has been a longstanding perception in the literature that Indian foreign policymaking tends to be highly centralised and elitist.³² Here Jawaharlal Nehru's leadership weighs heavily. Not only has his direct involvement been detailed meticulously but more attention has been given to how he had an oversized impact. Andrew Kennedy argues that Nehru's 'bold diplomacy' drew from certain 'national

³¹Pant appears to approve of the Modi government's foreign policy, particularly vis-à-vis major powers like United States and China. He identifies Modi as the architect of a hedging strategy that binds India closer to the US to counter China's rise across the Asia-Pacific. See, Harsh Pant, 'Out with Nonalignment, in with a Modi Doctrine', *The Diplomat*, November 13, 2014, at <http://thediplomat.com/2014/11/out-with-non-alignment-in-with-a-modi-doctrine/> (Accessed February 24, 2017). For a good early overview of what Modi's foreign policy entails, see Ian Hall, 'Is a Modi Doctrine Emerging in Indian Foreign Policy?', *Australian Journal of International Affairs*, 69(3), 2015, pp. 247–252.

³²This claim does not mean that institutions responsible for formulating, monitoring and implementing foreign policy are not important. It signifies that the Indian prime minister and the growing office around the position has acquired considerable sway in foreign policy. There is a growing list of works that speak to the importance of the Prime Minister from 1947. See, Raghavan, Srinath. *War and peace in modern India*. Springer, 2016.; Kennedy, Andrew. *The International Ambitions of Mao and Nehru: National Efficacy Beliefs and the Making of Foreign Policy*. Cambridge University Press, 2011.; Also see Gopal, Sarvepalli. "Jawaharlal Nehru: a biography Vol 2: 1947-1956." (1979) and Gopal, Sarvepalli. "Jawaharlal Nehru: a biography Vol. 3: 1956-1964." (1984).

efficacy beliefs.³³ In particular, Kennedy emphasises Nehru's 'moral efficacy' or penchant to rely on diplomacy, not the threat of force or war, to elicit cooperation from other states on diplomatic issues like conflict and nuclear disarmament.³⁴ Nehru also features greatly in Srinath Raghavan's *War and Peace in Modern India* that explores how India prosecuted military conflicts soon after independence. After examining seven crisis situations from 1947-1962, Raghavan claims that India's policies in each situation was influenced by shifting ground realities and Nehru's own political views that Raghavan characterises as 'liberal realist.'³⁵ Rebutting competing claims that pin Nehru down as an 'idealist' or 'arrogant hardliner,' Raghavan portrays Nehru as a competent strategist and statesman who clearly understood war and diplomacy and deployed strategies, including force, to achieve desired objectives.³⁶ Besides Nehru, there have been other Indian Prime Ministers like Indira Gandhi, Rajiv Gandhi and Narasimha Rao who have taken a keen interest in foreign policy and attempted to engineer outcomes, economic or security, in India's interest.³⁷

But what distinguishes Nehru from other Indian Prime Ministers was not just his dominant control over the levers of state power, particularly foreign policy, but also his ideas that some scholars claim reverberate to this day in various guises.³⁸ The role of the executive can be accentuated through a pronounced reliance on certain ideas that help reveal the approach and strategy required to achieve foreign policy objectives. In the literature, Nehru's impact was accentuated by his affinity to ideas of how he perceived India and what role she should play in the world. Andrew Kennedy underlines Nehru's role and impact through his views on moral efficacy that underscored India's autonomy

³³Kennedy, Andrew. *The International Ambitions of Mao and Nehru: National Efficacy Beliefs and the Making of Foreign Policy*. Cambridge University Press, 2011, 3-7.

³⁴Ibid, 15-19.

³⁵Raghavan, Srinath. *War and peace in modern India*. Palgrave Macmillan, 2010, 15-19.

³⁶Ibid.

³⁷To read more on each of these three Indian PM's see Malhotra, Inder. *Indira Gandhi: A personal and political biography*. Northeastern Univ Pr, 1989.; Raghavan, Srinath. "At the Cusp of Transformation." In *The Oxford Handbook of Indian Foreign Policy*, p. 117. OUP Oxford, 2015.; Sitapati, Vinay. "Half Lion: How PV Narasimha Rao Transformed India." (2016).

³⁸Harsh Pant (2015) believes non-alignment exists in some form to date but this view has been contested by several scholars (Mohan 2005, Ganguly 2003) that claim a transformation has taken place in Indian foreign policy after the cold war evidenced by a desire to accrue power and increase material capabilities. See, Pant, Harsh V., and Julie M. Super. "India's 'non-alignment' conundrum: a twentieth-century policy in a changing world." *International Affairs* 91, no. 4 (2015): 747-764; Mohan, C. Raja. *Crossing the rubicon: The shaping of India's new foreign policy*. Viking Adult, 2003; Ganguly, Sumit. "India's foreign policy grows up." *World Policy Journal* 20, no. 4 (2003): 41-47. Finally, an important riposte the notion that Nehru had unrivalled control over foreign policy is Keenleyside, T. A. "The inception of Indian foreign policy: The non-Nehru contribution." *South Asia: Journal of South Asian Studies* 4, no. 2 (1981): 63-78.

in world affairs.³⁹ Generally, such views fall under the strategy of 'Non-alignment' the paradigm that has ostensibly governed Indian foreign policy since 1947.⁴⁰ At its core, non-alignment calls for eschewing alliances of any kind with other states while pursuing a pragmatic independent foreign policy in a world riven by power politics.⁴¹ Shashi Tharoor, scholar and politician who has himself written a biography on Nehru, claims that Non-alignment, in essence, led to Nehru's so-called 'messianic utopianism' that disavowed sober consideration of national interests on core foreign policy issues.⁴² What is generally clear from works that stress Non-alignment is that India over its history settled for a foreign policy marked by caution and a pronounced unwillingness to enhance its power and engage with great power politics.⁴³ Broadly, it is clear that executive authority matters in Indian foreign policy and focused leadership on particular issues, whether backed by certain ideas or strategy to achieve incumbent interests, is a key institutional aspect of the practice of Indian foreign policy and should be traceable when measuring how India negotiates international rules.

Parliament and Parties

The Indian parliament is another important political institution that could either constrain or assist the executive's role in foreign policy. Scholars have found instances where various political parties in the Lok Sabha, the lower house, have contributed to

³⁹Kennedy, *International Ambitions of Mao and Nehru*, 7.

⁴⁰In the last twenty years, the most common refrain to non-alignment has been strategic autonomy. The UPA government has professed to its utility in a world that is increasingly complex and interdependent. In 2014, several noteworthy Indian scholars produced a new document 'Non-Alignment 2.0' as a new template to guide Indian foreign policy. The strategy called for using foreign policy to enhance India's internal economic development. See Khilnani, Sunil. *Nonalignment 2.0: A Foreign and Strategic Policy for India in the 21st Century*. Penguin UK, 2014.

⁴¹It is perhaps fair to argue that the idea of non-alignment has remained central to how India has conceptualised itself in world affairs that manifests through an abiding desire for strategic autonomy that has meant, at times, the eschewing of alliances and the adoption quasi-alliances with major powers to achieve diplomatic goals. For a good overview of non-alignment, see Nehru, Jawaharlal. "Changing India." *Foreign Affairs* 41, no. 3 (1963): 453-465, and Appadorai, Arjun. "Non-alignment: some important issues." *International Studies* 20, no. 1-2 (1981): 3-11.

⁴²Tharoor, Shashi. *Reasons of state: Political development and India's foreign policy under Indira Gandhi, 1966-1977*. Stosius Incorporated/Advent Books Division, 1982.

⁴³To get a granular view of how non-alignment worked in practice, see Nehru, Jawaharlal. *India's foreign policy: selected speeches, September 1946-April 1961*. Publications Division, Ministry of Information and Broadcasting, Government of India, 1961. Several scholarly works help explain non-alignment, see Rana, A. P. "The Imperatives of Non-Alignment." *A conceptual Study of India's Foreign Policy in the Nehru Period, New Delhi* (1976).; Rana, A. P. "The Nature of India's Foreign Policy: An Examination of the Relation of Indian Non-alignment to the Concept of the Balance of Power in the Nuclear Age." *India Quarterly* 22, no. 2 (1966): 101-139.; Ghosh, Partha S. "Domestic Sources of India's Policy of Non-Alignment." *India Quarterly* 36, no. 3-4 (1980): 348-362.; Misra, K. P. "Towards Understanding Non-Alignment." *International Studies* 20, no. 1-2 (1981): 23-37.

debates on foreign policy issues like the crises in Kashmir (1948/49), China 1962 and East Pakistan (1971); interactions with the nuclear non-proliferation regime; US intervention in Vietnam and Soviet intervention in Afghanistan all the way to the recent Indo-US civil nuclear deal; of late, foreign policy issues that the Lok Sabha has considered has expanded to cover issues like climate change, global health and international property rights.⁴⁴ There are few ways in which the Indian parliament can influence foreign policy - budgetary allocations that may affect relations with another state or by intervening procedurally in parliament through resolutions or motions to affect government actions on a particular issue.⁴⁵ However, in practice, the Indian constitution grants ample leeway to the executive branch to conduct foreign policy. Political representatives have sought to increase parliamentary scrutiny over foreign policy through institutionalised interactions between MEA officials and parliamentary representatives, particularly from the Lok Sabha. But this trend has declined over time. In a chapter on how the Lok Sabha affects Indian foreign policy, diplomat turned scholar M.L Sondhi lamented on the state of relations between representatives and diplomats calling for the 'urgent need to reduce the traditional prejudice and lack of confidence in the interaction between the officials and politicians.'⁴⁶ No doubt, the parliament is a vector through which Indian politicians can have an impact on foreign policy matters and this could be relevant should the lower or upper house debate multilateral issues at any point.

Political parties can also affect domestic debates on foreign policy and their views on particular issues that become important to track and analyse should they subsequently gain power and form government. Historical work examining the Bharatiya Janata Party's (BJP) and its forerunner the Jana Sangh's (JS) foreign policy

⁴⁴Parliamentary effects on foreign policy has been studied through the prism of particular events or episodes as highlighted. For more info on various events as identified, see Chaudhuri, Rudra. "The Limits of Executive Power: Domestic Politics and Alliance Behavior in Nehru's India." *India Review* 11, no. 2 (2012): 95-115.; Raghavan, Srinath. "Civil-Military Relations in India: The China Crisis and After." *Journal of Strategic Studies* 32, no. 1 (2009): 149-175.; Raghavan, Srinath. 1971. Harvard University Press, 2013. For a recent overview of how the Indian parliament affects Indian foreign policy, see Chaudhuri, Rudra. "The Parliament." In *The Oxford Handbook of Indian Foreign Policy*, p. 219. Oxford University Press, Oxford, 2015. Suresh Prabhu explores parliamentary involvement on climate change issues from the early 2000s in Prabhu, Suresh. "Climate change and parliament." *Handbook of Climate Change and India: Development, Politics and Governance*. London: Routledge (2011): 230-245.; Chitalkar, Poorvi, and David M. Malone. "Democracy, Politics and India's Foreign Policy." *Canadian Foreign Policy Journal* 17, no. 1 (2011): 75-91.

⁴⁵Chaudhuri, *The Parliament*, 222.

⁴⁶Sondhi, Manohar L. "Parliament and Indian Foreign Policy," in *Foreign Policy and Legislatures: An Analysis of Seven Parliaments*. Abhinav Publications, 1988.

views evidence the existence of multiple ideational strands in Indian foreign policy.⁴⁷ Mohammed Ali Kishore expounds on the JS's foreign and security policies that were, in some ways, antithetical to the tenets of non-alignment particularly in terms of 'military pacts and direct associations' with states in the 'Western bloc.'⁴⁸ Kishore identifies China as the singular threat to India; a threat that he claims can only be remedied by a 'joint military front' with nations like Japan, Australia, Malaysia and Thailand.⁴⁹ Also noteworthy here is the Sangh's approach to the United States and of the need for India to 'seek an alliance' with the US to address key foreign policy challenges like China and Pakistan which Nehru disavowed in public but attempted to arguably fashion in private during the Sino-India conflict in 1962.⁵⁰

Rahul Sagar and Ankit Panda challenge the existence of a 'Nehruvian Consensus' or a coherent strategic worldview amongst foreign policy elites until the end of the cold war when it was supposedly replaced by certain realist views.⁵¹ Through a close reading of India's constituent assembly debates in the late 1940s, Sagar and Panda find that India's political elites, even members of the Congress party, possessed dissimilar views on India's foreign policy including some with realist beliefs.⁵² In a related work, Sagar emphasised that political and legislative debates around and of

⁴⁷Rahul Sagar maps the intellectual roots of the Hindu nationalist views of international politics through a careful reading of the works of several thinkers including Vinayak Savarkar and Madhav Sadashiv Golwalkar. Sagar argues that both thinkers held pessimistic views about the possibilities of international cooperation in foreign policy that contrasts starkly from Nehru's preferences. See Sagar, Rahul. 'The Hindu Nationalist View of International Politics,' in Kanti Bajpai, ed. *India's Grand Strategy: History, Theory, Cases*, New Delhi, Routledge, 2014. Kate Sullivan also argues that moralising tendencies in Indian diplomacy has clear historical and ideational foundations, namely Hindu renaissance thinkers like Vivekananda, struggles towards political independence and the legacies of the Indian foreign service. See Kate Sullivan, "Exceptionalism in Indian Diplomacy: The Origins of India's Moral Leadership Aspirations," *South Asia: Journal of South Asian Studies* 37, 4 (2014): 652.

⁴⁸Kishore, Mohammed Ali. *Jana Sangh and India's foreign policy*. New Delhi: Associated Publishing House, 1969, 31-34.

⁴⁹Ibid.

⁵⁰This episode was chronicled in Riedel, Bruce. *JFK's Forgotten Crisis: Tibet, the CIA, and Sino-Indian War*. Brookings Institution Press, 2015 and Chaudhuri, Rudra. *Forged in crisis: India and the United States since 1947*. Oxford University Press, 2014. The notion that an alliance was sought was affirmed by B.K. Nehru in B.K. Nehru, *Nice Guys Finish Second* (New Delhi: Viking 1997), 408. Chaudhuri (2009) contests this argument claiming that cultural considerations precluded the necessity for an alliance instead arguing that domestic cultural beliefs mattered more than other considerations. See, Chaudhuri, Rudra. "Why Culture Matters: Revisiting the Sino-Indian Border War of 1962." *Journal of Strategic Studies* 32, no. 6 (2009): 841-869.

⁵¹Sagar, Rahul, and Ankit Panda. "Pledges and Pious Wishes: The Constituent Assembly Debates and the Myth of a "Nehruvian Consensus"." *India Review* 14, no. 2 (2015): 203-220.; Also see Sagar, Rahul. "Before Midnight: Views on International Relations, 1857-1947" in David Malone, C. Raja Mohan, and Srinath Raghavan, eds., *Oxford Handbook on Indian Foreign Policy*, Oxford: Oxford University Press, 2015.

⁵²Sagar and Panda, *Pledges and Pious Wishes*, 218.

Indian foreign policy did not merely surface as India's power visibly increased in the 1990s but were a part of the republic's founding going back decades, even before India gained independence.⁵³

Similarly, Chris Ogden analyses the influence of Hindu nationalist views on Indian security policy. Drawing from constructivist theory, Ogden claims that certain identity-centric factors shape Hindu nationalist views on security or what he terms 'security identity' that comprises of three elements - a political consensus, physical and geographical boundaries and perceptions of how India is regarded by other states.⁵⁴ Ogden then applies the framework to examine the National Democratic Alliance (NDA) government's foreign policy in Asia and with the United States that amounted to realignment 'from the non-aligned ambiguity to a more assertive, sober and pragmatic foreign policy.'⁵⁵ By tracing a distinct *indigenous* ideology shaping the party's strategic views, Ogden concedes that an evolution has taken place from a foreign policy driven by ideals to one where pragmatism and power matter. In a nutshell, political parties have the ability to affect foreign policy through their ideas and views on particular issues like relations with major powers like the United States and China, nuclear proliferation and international trade.

Bureaucracy – The Ministry of External Affairs (MEA)

Ideas can also influence strategy and policy through the bureaucracy. The apposite bureaucracy in terms of foreign policy is the Ministry of External Affairs (MEA) largely staffed by officers from the Indian Foreign Service (IFS).⁵⁶ To be sure, the MEA is not alone in the formulation of foreign policy; the ministry works alongside other entities like the Prime Minister's office (PMO) and the National Security Council (NSC) under the aegis of the Prime Minister.⁵⁷ Other ministries like the Ministry of Finance or Ministry of Commerce chip in when specialist expertise is required. Coordination, as a result, becomes essential but complex when accommodating multiple entrants and their

⁵³Sagar, Rahul. "State of mind: what kind of power will India become?." *International Affairs* 85, no. 4 (2009): 801-816.

⁵⁴Ogden, Chris. *Hindu nationalism and the evolution of contemporary Indian security: portents of power*. Oxford University Press, 2014, 12-20.; Also see, Ogden, Chris. "Norms, Indian Foreign Policy and the 1998–2004 National Democratic Alliance." *The Round Table* 99, no. 408 (2010): 303-315.

⁵⁵Ogden, *Hindu Nationalism*, 18.

⁵⁶Madan, Tanvi. "The Officialdom: South Block and Beyond," in *The Oxford handbook of Indian foreign policy*. Edited by David M. Malone, C. Raja Mohan and Srinath Raghavan." (2016): 232-244.

⁵⁷*Ibid*, 235.

preferences in the process.⁵⁸ Nonetheless, most of the coverage in the literature pertaining to the MEA seldom focuses on how the ministry functions and the positions it takes on particular issues and whether there is a strategy in place to advance core interests. Instead, observations abound on the limited capacity of the MEA relative to its burgeoning agenda and widening policy commitments. These claims generally coalesce around either the lack of sufficient officers in the service to conduct business, suboptimal levels of expertise and knowledge to tackle specialised or technical issues, incapacity to engage with public opinion and policymakers on key issues and an inhospitable attitude toward external experts from think tanks, universities and the corporate sector.⁵⁹ Institutional incapacities and deficits, however, does not necessarily imply that existing diplomats and officials lack the capacity to do the job but just that they might find the workload too onerous to shoulder. Some criticism is also directed to the distinct parochial culture that ostensibly pervades the MEA which scholars like David Malone and Stephen Cohen claim compels Indian bureaucrats to *ex ante* adopt positions that are invariably defensive or adversarial.⁶⁰ According to Malone and Cohen, Indian diplomats have developed a proclivity to function as inveterate obstructionists who vitiate bilateral and multilateral negotiations through their hard nosed diplomatic disposition.⁶¹ It is, however, undeniable that the MEA and its diplomats serve as the principal interlocutor for most foreign policy issues and are generally involved when it comes to negotiating international rules. We can expect the MEA to have an impact on such negotiations, which makes tracking and analysing their role important.

⁵⁸Miller, Manjari Chatterjee. "India's Feeble Foreign Policy: A Would-Be Great Power Resists Its Own Rise." *Foreign Affairs* 92, no. 3 (2013): 14-19.

⁵⁹Several articles attest to the limited capacity of the MEA and how that precludes the ministry from capably discharging its responsibilities. These include Miller, Manjari Chatterjee. "India's Feeble Foreign Policy: A Would-Be Great Power Resists Its Own Rise." *Foreign Affairs* 92, no. 3 (2013): 14-19.; Dan Markey focuses on broader institutional structure around foreign policy inclusive of external advice but nonetheless adds that MEA is generally weakly staffed Markey, Daniel. "Developing India's Foreign Policy" *Software*." *Asia policy* 8, no. 1 (2009): 73-96.; Madan, Tanvi. "What in the world is India able to do: India's state capacity for multilateralism," in *Shaping the Emerging World: India and the Multilateral Order*, eds. Waheguru Pal Singh Sidhu, Pratap Bhanu Mehta, Bruce D. Jones, Brookings Institution Press, 95-114, 2013.; Miller, Manjari Chatterjee. "The Un-Argumentative Indian? Ideas About the Rise of India and Their Interaction with Domestic Structures." *India Review* 13, no. 1 (2014): 1-14.

⁶⁰Malone, David. *Does the elephant dance? contemporary Indian foreign policy*. Oxford University Press, 2011.; Cohen, Stephen P. *India: emerging power*. Brookings Institution Press, 2004. Amrita Narlikar also contends that Indian officials are generally defensive and adversarial when negotiating trade issues at the World Trade Organization. See Narlikar, Amrita. "Peculiar chauvinism or strategic calculation? Explaining the negotiating strategy of a rising India." *International Affairs* 82, no. 1 (2006): 59-76.

⁶¹*Ibid.*

A focus on the bureaucracy, particularly the MEA, allows us to see if some of the key ideas and ideologies covered above, namely non-alignment, have currency within the ministry and affect policy. Does non-alignment still resonate today in New Delhi? Vipin Narang and Paul Staniland argue that there appears to be a consensus amongst the putative Indian foreign policy elite that a broad strategic core exists around Indian foreign policy that emphasises 'autonomy, flexibility, and a desire to avoid dependence on stronger powers.'⁶² What Narang and Staniland see is continuity in terms of foreign policy thinking and decision-making in New Delhi despite clear power shifts in the international system.

However, not all scholars share this view. New evidence uncovered from various archives suggest that a foreign policy consensus did not exist in India and that claims to that end have missed the diversity of views surrounding Indian foreign policy discussions. Rudra Chaudhuri argues that there was a vigorous debate around the US-India relationship from various domestic quarters, including political parties like the Swatantra Party, Communist Party of India (CPI) and Bharatiya Jan Sangh (BJS) whose leaders sought to impress their contrarian views on non-alignment to Nehru.⁶³ Chaudhuri's larger point that he makes in his broader history on US-India relations is that foreign policy ideas are not divorced from their political context and they often mesh with exigent interests to shape foreign policy.⁶⁴ For far too long, Chaudhuri claims, Indian foreign policy analysts were too focused on dichotomies between ideational constructs and material interests when, instead, what was unfolding in practice was a complex interplay of both ideas and interests; the ideas-interests equation was illuminated by Chaudhuri through different crises in US-India relations where New Delhi and Washington engaged in a tussle to achieve each other's interests surrounded by wide-ranging constraints.⁶⁵ As a result, ideas and interests could form a part of the equation in the approach or strategy adopted by the institution overseeing negotiations to negotiate international rules that makes it worthwhile to consider.

⁶²Narang, Vipin, and Paul Staniland. "Institutions and worldviews in Indian foreign security policy." *India Review* 11, no. 2 (2012): 76-94.

⁶³Chaudhuri, Rudra. "The Limits of Executive Power: Domestic Politics and Alliance Behavior in Nehru's India." *India Review* 11, no. 2 (2012): 95-115.

⁶⁴Chaudhuri, Rudra. *Forged in crisis: India and the United States since 1947*. Oxford University Press, 2014.

⁶⁵*Ibid.*

It is also instructive to track and measure how the MEA acts on particular issues to get a better sense of whether India's foreign policy has changed after the end of the cold war. Some scholars argue that the end of the cold war has engineered a shift in the tenor of Indian foreign policy or the 'philosophical premises' underpinning India's approach to world affairs.⁶⁶ C. Raja Mohan argues that from the 1990s India has adopted a more 'self-assured diplomatic' posture characterised by five clear policy shifts – revival of relations with the United States, incorporation of economic considerations in foreign policy having dispensed with the socialist paradigm, shift from shepherding interests of developing countries to a clear focus on self-interests, rejection of nativist anti-western modes of thinking that resulted in detrimental security and diplomatic choices and a more pragmatic attitude toward the international order that could advance India's economic and political interests.⁶⁷ Mohan argues that from an adversarial relationship with the international order and leading major powers, except perhaps the Soviet Union, India has pivoted to engage more confidently with the world. Mohan also claims that a sense of 'responsibility' bears on India's shoulders to help address key collective action challenges like climate change, maritime piracy, peacekeeping and nuclear non-proliferation.⁶⁸ International order and stability, Mohan argues, matter to India having realised how connected its economic and political trajectory is to the world and the international economy.⁶⁹ Sumit Ganguly also believes that Indian foreign policy has changed after the end of the cold war. Ganguly claims that Indian foreign policy is now 'growing up' having shed its 'ideological burden' of non-alignment that had ostensibly limited its course for decades.⁷⁰

Unsurprisingly, there is a chorus of voices who claim Indian foreign policy has not changed and that culture and history, in different ways, weigh on the conduct of Indian foreign policy. Historical legacies, particularly colonial rule, have reared as a key factor causing India to behave as a 'victim' or a state that prefers to fixate on considerations of equity and justice instead of order and stability. Manjari Chatterjee Miller argues that to make sense of India's foreign policy we need to comprehend how

⁶⁶Mohan, C. Raja. *Crossing the rubicon: The shaping of India's new foreign policy*. Viking Adult, 2003, 7. Also see, Ganguly, Sumit, and C. Raja Mohan. "Reorienting Indian Foreign Policy." (2005): 141-144.

⁶⁷Mohan, *Crossing the Rubicon*, 12-21.

⁶⁸Mohan, C. Raja. "Rising India: partner in shaping the global commons?." *The Washington Quarterly* 33, no. 3 (2010): 133-148.

⁶⁹Ibid, 140.

⁷⁰Ganguly, Sumit. "India's foreign policy grows up." *World Policy Journal* 20, no. 4 (2003): 41-47. Also see, Ganguly, Sumit, and Rahul Mukherji. *India since 1980*. Cambridge University Press, 2011.

colonialism has affected her sense of self and identity.⁷¹ Miller claims that Indian foreign policy elites are influenced by 'post-imperial ideology' or a belief that their state is a victim having suffered through the scourge of colonialism.⁷² This palpable sense of victimhood, Miller argues, leads India to focus on attaining recognition or status through various foreign policies, particularly on issues like nuclear weapons or military intervention.⁷³ Likewise, Harsh Pant argues that no perceptible shift has occurred in terms of India's foreign policy orientation. Pant claims continuities remain, quite doggedly so, in Indian foreign policy rendering it difficult for policymakers to 'enhance their security by increasing their capabilities and their control over the external environment.'⁷⁴ Following an institutional focus and approach when investigating how India negotiates international rules allows us to make empirically based judgments on the nature of Indian foreign policy, assessing whether the broad tenor has changed or remained the same.

Interest Groups

It is no surprise that the politics around Indian foreign policy has evolved. More actors, particularly non-state actors, have entered the fray and are looking to have an imprint on foreign policy issues affecting them. Alongside a focus on institutions, we can now robustly trace whether and how such interest groups have an effect on Indian foreign policy. Broadly, we can identify several types of interest groups in the Indian context - knowledge agents like think tanks and universities, corporate sector and related business associations, civil society comprising of domestic non-governmental organisations, labour unions and other social groups, the larger media contingent including print, radio, television and newspaper dailies and the Indian diaspora. Not all of these groups, of course, have an effect and those groups that manage to affect government thinking and policy may rely on different tools and methods and will probably have different motivations driving their actions.

⁷¹Miller, Manjari. *Wronged by empire: Post-imperial ideology and foreign policy in India and China*. Stanford University Press, 2013.

⁷²Ibid.

⁷³Ibid.

⁷⁴Pant, Harsh V. "A rising India's search for a foreign policy." *Orbis* 53, no. 2 (2009): 250-264. Also see, Pant, Harsh V. "Indian foreign policy challenges: substantive uncertainties and institutional infirmities." *Asian Affairs* 40, no. 1 (2009): 90-101.

Looking at the corporate sector, there is a view that the role and influence of particular corporate groups and lobbies on foreign policy has increased from the mid-1980s when the Indian government initiated market reforms. This assertion does not mean that business interests were not organised or were politically irrelevant before that period. Stanley Kochanek points out that business associations like the Associated Chambers of Commerce (ASSOCHAM) and Federation of Indian Chambers of Commerce and Industry (FICCI) representing corporate interests have existed since the early 20th century and were ‘as well developed as their counterparts’ in the West.⁷⁵ Nonetheless, their relevance as voices of a distinct stratum were subordinate to the interests of the Indian government that had, at least until the 1980s, treated domestic business with hostility.⁷⁶ But since then, their impact on foreign policy has been notable but not exceptional; material and distributional factors could trigger their agency but whether their views have credence is not always clear nor very well understood.

Economist Rajiv Kumar argues that corporate sector’s interest in international trade negotiations, particularly from the Uruguay Round, was driven by select industries like technology and services and lobbies like Confederation of Indian Industry (CII) who wanted more market access for their products and services.⁷⁷ With this impetus, associations like CII began pushing the interests of the Indian corporate sector abroad through foreign trade missions and Track II diplomacy that the NDA and UPA coalition governments supported. Sanjaya Baru argues that the ‘investments CII and FICCI made in trade diplomacy was of great use for Indian business and the Indian government’ by staking business as a diplomatic partner.⁷⁸ Despite their growing clout, Kumar adds that the influence of business lobbies should not be overstated; the tack adopted by business interests on foreign economic policies like the Indo-US economic dialogues, WTO negotiations, climate change negotiations and other trade forums generally comport with the positions of the government and influence is ‘tangible only when its own stance and direction is in sync’ with official policy.⁷⁹ Nonetheless, these accounts do

⁷⁵Kochanek, Stanley A. *Business and politics in India*. University of California Press, 1974, 2-15.

⁷⁶*Ibid*, 7.

⁷⁷Kumar, Rajiv. "Role of business in India’s foreign policy." *India Review* 15, no. 1 (2016): 98-111.; Also see, Kumar, Rajiv. ‘The Private Sector,’ in Malone, David M., C. Raja Mohan, and Srinath Raghavan, eds. *The Oxford Handbook of Indian Foreign Policy*. Oxford University Press, Oxford: UK, 2015, 247-258.

⁷⁸Baru, Sanjaya. "The Influence of business and media on Indian foreign policy." *India Review* 8, no. 3 (2009): 272.

⁷⁹Kumar, *Role of Business in India’s Foreign Policy*, 107.

suggest that private interests could affect the government's position on a range of international issues, particularly multilateral negotiations.

The global Indian diaspora has also become important as the Indian government engages robustly with the international economy and further embeds itself within transnational patterns of production, finance and trade. The Indian government has been notably entrepreneurial in its engagement of the wider Indian diaspora through various initiatives. Latha Varadarajan argues that since the late 1990s the Indian government has introduced various measures like the establishment of a new ministry to deal with diaspora affairs, capital investment incentives and new forms of dual citizenship with special privileges to 'institutionalize the relationship between the nation-state and diaspora.'⁸⁰ Varadarajan's larger assertion is that such diaspora engagement policies are connected to broader shifts in the international economy and global capitalism that drive states to co-opt diaspora communities in their development.⁸¹ In a related work, Devesh Kapur analyses the economic and political consequences of international migration on the countries from which migrants originate.⁸² Looking at India, Kapur argues that international migration and the Indian diaspora has contributed in several ways via increased remittances, ideas and financial capital to India's ongoing economic transformation.⁸³ In terms of foreign policy, Kapur notes how the Indian-American community in the United States influenced the broader US-India trajectory toward greater engagement; the feedback effects of this influence in India, however, has not been adequately mapped.⁸⁴

Indian think tanks and universities are distinguished by their focused use of research and ideas to gain relevance and influence in the policy process. Knowledge is their currency. Despite the proliferation of universities and think tanks in India, there is very little evidence to suggest that they have meaningfully shaped India's foreign policy. Generally, their position and policy relevance is determined by the political context, specifically the mind-set of relevant government ministries or key officials. Notwithstanding the government's appetite for external knowledge, Dan Markey has

⁸⁰Varadarajan, Latha. *The domestic abroad: Diasporas in international relations*. Oxford University Press, 2010, 9.

⁸¹Ibid.

⁸²Kapur, Devesh. *Diaspora, development, and democracy: the domestic impact of international migration from India*. Princeton University Press, 2010.

⁸³Ibid.

⁸⁴Ibid.

argued that India's think tanks and universities suffer from a range of infirmities that prevent them from producing 'high-quality, policy-relevant scholarship.'⁸⁵

Undoubtedly, financial and human resource constraints impede think tanks from producing quality research. Increasingly, think tanks have become outposts for former government officials and diplomats as they exit the civil service but it is unclear if this growing trend has closed the gap between both realms and pushed more policy relevant research to enter the policy process. Amitabh Mattoo and Rory Medcalf suggest that former government officials might not push for policy shifts given their proclivity to support the status quo.⁸⁶ Nonetheless, think tanks are relevant as feedback mechanisms and vectors through which specific ideas or views acquire salience and possibly influence policy particularly in an age where the issues that governments face like global warming, public health pandemics, nuclear proliferation get more complex and technical.

Finally, it is worth noting the final interest group of interest – the Indian media that covers organisations and individuals from news dailies, magazines and radio and television outlets. Though the India media landscape has expanded and fragmented over the past thirty years, there is little evidence to suggest they have tangibly influenced Indian foreign policy. Manoj Joshi claims that media influence and coverage is limited by the insular policymaking style of the Ministry of External Affairs that regulates the amount of information given to media entities on key issues.⁸⁷ Moreover, the quality and consistency of coverage on issues differs which affects public understanding of key foreign policy issues. But when there is focused coverage, as witnessed on the US-India civil nuclear deal, debates on the issue get polarised which could constrain the space available for the government to adopt certain policies especially if a 'clear-headed policy' is missing.⁸⁸ Moreover, similar to the influence of corporate interests, the importance of media groups is contingent on the government and the approach taken on particular policy concerns. Media influence is heightened by uncertainty and ineptness

⁸⁵Markey, Daniel. "Developing India's Foreign Policy" Software". *Asia policy* 8, no. 1 (2009): 73-96.

⁸⁶Mattoo, Amitabh, and Rory Medcalf. "Think-Tanks and Universities." in Malone, David M., C. Raja Mohan, and Srinath Raghavan, eds. *The Oxford Handbook of Indian Foreign Policy*. Oxford University Press, Oxford: UK, 2015, 271-281.

⁸⁷Joshi, Manoj. "The Media in the Making of Indian Foreign Policy." in Malone, David M., C. Raja Mohan, and Srinath Raghavan, eds. *The Oxford Handbook of Indian Foreign Policy*. Oxford University Press, Oxford: UK, 2015, 259-270.

⁸⁸Ibid, 262. To get a better sense of how the media affected the politics of the Indo-US nuclear deal, see Mistry, Dinshaw. *The US-India Nuclear Agreement: Diplomacy and Domestic Politics*. Cambridge University Press, 2014.

and amplified when the government publically falters making it more susceptible and responsive to media pressure.⁸⁹ Besides these interest groups, we also have to take note of certain pivotal individuals, likely to be experts on particular issues, who use various media avenues to inject their views into the policy domain to influence government thinking. Their role and advocacy on particular points of view could have a direct effect on how the government understands a foreign policy problem and the public debate around that problem.

Gap – How Does India Negotiate International Rules?

The literature review presented above does not represent the entire gamut of work on Indian foreign policy, just some key conceptual areas pertinent to this thesis and the empirical focus. The review traced several relevant components covering Indian multilateralism and Indian foreign policy with a focus on the political economy – interests and strategy, institutions including the executive, parliament and political parties and the bureaucracy and interest groups. These works have collectively expanded our understanding of Indian foreign policy. Yet collectively, these contributions are inadequate to understand and explain how India negotiates international rules and why it ratifies or rejects them. Nonetheless, these gaps also serve as opportunities to advance the literature on Indian foreign policy, India's international political economy and Indian multilateralism.

First, we have very little understanding of what India's interests are on particular issues like international trade, climate change, maritime security and nuclear disarmament and how those interests determine India's approach at negotiations. Thus far, scholars who detail how and why India behaves on a particular multilateral issue like climate change, human rights or international trade tend to provide descriptive and post-hoc rationalisations of positions India adopted at particular junctures. It is important to highlight here that having a defensive or cautious attitude toward multilateral issues does not, in any way, negate the fact that an *interest* and desire exists to *negotiate* such policy matters. As a result, it is important to investigate further what the specific *interests* are on particular issues to better understand how they shape India's approach at negotiations and how they influence the attendant outcomes, in this case

⁸⁹Joshi, *The media in the making of Indian foreign policy*, 267.

either ratification of international rules or not. Moreover, we need to carefully distinguish between India's tendencies at international regimes that scholars like Narlikar and Malone and Cohen emphasise and actual policy outcomes when analysing India's multilateral approach. For instance, can India be defensive at international negotiations and still ratify a particular treaty or agreement or does defensiveness portend rejection? There is an opportunity to link India's positions during negotiations with eventual outcomes - ratification, abstention or rejection.

Second, there is an opportunity to carefully investigate the domestic politics around India's approach toward international rules. The literature on India's international political economy that should capture this dynamic offers little here.⁹⁰ Thus far, studies on India's multilateral behaviour seldom unpack how domestic political considerations, particularly institutions, shape or constrain the policies adopted.⁹¹ This gap is disconcerting since institutions can and do affect Indian foreign policy. Even if one accepts *prima facie* the notion that institutional deficits exist in the conduct of Indian foreign policy, it should not preclude a sober consideration of how institutions function. We can better demonstrate how key institutions like the executive branch, various bureaucracies covering foreign and security policy and the legislature affect foreign policy. Leaders occupy a powerful role in studies of Indian foreign policy.⁹² There are studies that detail how institutions contribute to debates on key foreign policy issues, particularly related to conflict and intervention, but this process

⁹⁰ There has been very little work on India's international political economy that explores the domestic politics around India's international economic policies and positions including its behaviour with respect to global governance. To be sure, there have been studies linking how India's cultural traits influence its policies in trade (Narlikar 2010; 2013) but very little systematic empirical or conceptual work connecting some key factors like institutions, ideas and interest groups to policy outcomes. Few studies include Baru, Sanjaya. "Geo-economics and strategy." *Survival* 54, no. 3 (2012): 47-58.; Baru, Sanjaya. "Strategic Consequences of India's Economic Performance." *Economic and Political Weekly* (2002): 2583-2592.; Baru, Sanjaya. *Strategic Consequences of India's Economic Performance: Essays and Columns*. Routledge, 2007.; Baru, Sanjaya. "The Economic Imperative for India's Multilateralism." *Shaping the emerging world: India and Multilateralism*. B. Jones, WP Singh Sidhu, & PB Mehta, Eds. Washington DC: Brookings Institution (2013): 75-93.; Nayar, Baldev Raj. *Globalization and politics in India*. Oxford University Press, 2010.

⁹¹ There are two exceptions here: Jenkins, Rob. "How Federalism Influences India's Domestic Politics of WTO Engagement (And Is Itself Affected in the Process)." *Asian Survey* 43, no. 4 (2003): 598-621.; Mistry, Dinshaw. "Domestic-international linkages: India and the comprehensive test ban treaty." *The Nonproliferation Review* 6, no. 1 (1998): 25-38.

⁹² Raghavan, Srinath. *War and peace in modern India*. Springer, 2016.; Kennedy, Andrew. *The International Ambitions of Mao and Nehru: National Efficacy Beliefs and the Making of Foreign Policy*. Cambridge University Press, 2011.

can be explored further.⁹³ We can build on this research by asking whether and how these institutions, like the executive or the bureaucracy responsible, influenced the approach taken at negotiations. Moreover, a focus on institutions allows us to gauge the importance of certain ideas and trace if and how they translate into policy. A focus on institutions also need not be one dimensional or focused on one particular institution like the Ministry of External Affairs or the Lok Sabha. On key foreign policy issues like arms control, climate change or military intervention, we can expect various institutions to have particular interests and adopt actions given their interests and positions.⁹⁴ As a result, it is worth delineating how and whether relevant institutions cooperate or conflict on key issues and how this institutional balance affects foreign policymaking. To be sure, some institutions like the Prime Minister's Office (PMO) or the Ministry of External Affairs may have greater leverage or sway but even then we should be able to empirically depict how institutions function and respond in motion. Institutional effectiveness can be analysed more systematically.

Third, tied to the question of institutions is the need to track and assess the effects of interest groups on Indian foreign policy. Can interest groups affect and constrain how India negotiates international rules? Very few studies have considered the effect of state-society relations on Indian foreign policy.⁹⁵ Do Indian officials incorporate the views of relevant interest groups on matters of foreign policy? Existing research on interest groups in Indian foreign policy does not explore this question in depth even as the groups that participate in the policy process continue to rise. In the last twenty years, the number of interest groups in India has proliferated and they have become more politically active. The Quality of Government (QOG) Index rates India as high on civil society participation in the political process or the extent to which the

⁹³Mistry, Dinshaw. "Domestic-international linkages: India and the comprehensive test ban treaty." *The Nonproliferation Review* 6, no. 1 (1998): 25-38.

⁹⁴Devesh Kapur and Pratap Bhanu Mehta's volume on public institutions in India assesses the efficacy of India's key public institutions like the parliament, presidency, judiciary and bureaucracy. They argue that institutional alignment does matter or the ability of institutions to address public policy issues by discharging their core functions. See Kapur, Devesh, and Pratap Bhanu Mehta. *Public Institutions in India: Performance and Design*. Oxford University Press, 2007.

⁹⁵However, there are studies on state-society relations and its effects on Indian politics and development. See, Kohli, Atul, ed. *India's democracy: an analysis of changing state-society relations*. Princeton University Press, 2014; Kohli, Atul. *State-directed development: political power and industrialization in the global periphery*. Cambridge University Press, 2004.; Kohli, Atul. "State, business, and economic growth in India." *Studies in Comparative International Development* 42, no. 1-2 (2007): 87-114.; Frankel, Francine R., and Madhugiri Shamarao Ananthapadmanabha Rao. *Dominance and State Power in Modern India: decline of a social order*. Vol. 2. Oxford University Press, 1989.

Indian government takes into account the interests of civil society actors. The index also rates India as high on interest group activity, which measures to what extent is there a 'network of cooperative associations to mediate between society and the political system.'⁹⁶ Thus, we should be able to trace their agency on foreign policy issues. Interest groups also gain more relevance since India's interactions with the international economy and the international order have increased.⁹⁷ As a result, we should be able to trace whether interest groups are affected by such interactions and if they opt to respond or articulate their views to political institutions. There is an opportunity to investigate the political economy of foreign policy by considering how both interest groups and institutions shape policy.

Finally, it is instructive to ask if it is possible to empirically link developments between the domestic and international levels. To be sure, links between domestic and international politics is well reflected in several studies in the literature on Indian foreign policy.⁹⁸ The work on the Indo-US nuclear agreement has shown how domestic political factors affected India's positions and negotiation of the agreement.⁹⁹ Generally, studies that focus on domestic politics commence at the domestic level to explain Indian foreign policy positions and outcomes at the international level. Sequentially, the argument generally works from the domestic to the international level. Analytically, however, there is an opportunity to direct inquiry the other way around by exploring whether systemic factors and developments at the international level, specifically international negotiations in this study, have an impact on how key political institutions perceive the issue and how that awareness and capacity influences the approach taken thereafter. We can map the interactive effects of developments at the international and

⁹⁶Interest group activity forms one component of a larger Quality of Government (QOG) database that measures various political governance indicators. See Stefan Dahlberg, Sören Holmberg, Bo Rothstein, Anna Khomenko & Richard Svensson. *The Quality of Government Basic Dataset* (University of Gothenburg: The Quality of Government Institute, 2012).

⁹⁷Mainstream IPE studies stress that engagement with the international economy generates material costs and opportunities for interest groups who would then seek to influence government policy to craft policies in their interests. See, Milner, Helen V. *Interests, institutions, and information: Domestic politics and international relations*. Princeton University Press, 1997.

⁹⁸For instance, see Mistry, Dinshaw. "Diplomacy, domestic politics, and the US-India nuclear agreement." *Asian Survey* 46, no. 5 (2006): 675-698.; Mistry, Dinshaw. *The US-India Nuclear Agreement: Diplomacy and Domestic Politics*. Cambridge University Press, 2014.; Chaudhuri, Rudra. *Forged in crisis: India and the United States since 1947*. Oxford University Press, 2014.

⁹⁹Two studies that use domestic politics to explain the Indo-US nuclear deal include Pant, Harsh V. *The US-India nuclear pact: Policy, process, and great power politics*. Oxford University Press, 2011 and Mistry, Dinshaw. *The US-India Nuclear Agreement: Diplomacy and Domestic Politics*. Cambridge University Press, 2014.

domestic levels on foreign policy. Given constant interactions between the domestic and international levels, it is now possible to map these developments in a dynamic way that permits us to make assured empirical judgments on India's foreign policy. Next, I move to describe the research design of the thesis that shows how I plan to achieve the research objectives of this study.

Case Selection

The next task is to pick international rules that India has negotiated to gauge how it behaves while negotiating them. Below, I list the relevant universe of international rules that India has negotiated from 1991-2005.

Table 1 International Rules India has negotiated 1991-2005

Year	Rule	Outcome
1992	United Nations Framework Convention on Climate Change	Ratified
1993	Chemical Weapons Convention	Ratified
1994	United Nations Convention to Combat Desertification	Ratified
1994	Convention on Nuclear Safety	Ratified
1995	General Agreement on Trade in Services (Uruguay Round Agreement)	Ratified
1996	Comprehensive Test Ban Treaty	Rejected
1996	WIPO Copyright Treaty	Abstained
1997	Kyoto Protocol	Ratified
1998	Rome Statute on the International Criminal Court	Abstained
2003	Framework Convention on Tobacco Control	Ratified
2005	Treaty on Plant Genetic Resources for Food and Agriculture	Ratified

To maximise the chances of observing the impact of institutional and political factors as stated above in influencing India's behaviour during international negotiations, I have tried to pick cases where India's behaviour diverged. For that reason, I select two key cases where India's approach and the outcome differed – Comprehensive Test Ban Treaty (1996) and Framework Convention on Climate Change (1992). Like climate change and disarmament, international trade is a critical issue that countries engage on. The Uruguay Round was also the last major trade agreement negotiated by GATT (and WTO) till now. As a result, I have opted to consider Uruguay Round Trade Agreement. Having chosen cases on climate change and nuclear disarmament, I drop two other international agreements that cover the same issue - Kyoto Protocol and Convention on Nuclear Safety. I also drop three other agreements given their narrow technical character – WIPO Copyright Treaty, Convention to Combat Desertification, Treaty on Plant Genetic Resources for Food and Agriculture. Finally, I have chosen the Framework Convention on Tobacco Control over the Rome Statute on the International Criminal Court. This decision was taken for two reasons. First, by selecting the FCTC, the four issues examined in this thesis deal with different policy matters – nuclear disarmament, climate change, international trade and public health - allowing us to robustly consider India's behaviour across a range of issue areas. And second, tobacco control matters more to India's economic potential than the International Criminal Court given India's demographic profile that is disproportionately young and the risks sustained tobacco use poses to economic growth. We can thus expect Indian negotiators to place more importance on the former than the latter.

Empirically, I focus on four particular international rules in this thesis - Framework Convention on Tobacco Control (FCTC), Framework Convention on Climate Change (FCCC), Comprehensive Test Ban Treaty (CTBT) and the Uruguay Round Trade Agreement.

Methodology

To generate findings, the thesis employs the method of structured-focused comparison across the four case studies.¹⁰⁰ The method was developed to study historical experiences to add to the generic knowledge of key foreign policy problems. In the past, trends like nuclear deterrence or the ratification arms control treaties have been investigated through this method to yield explanations that would add to our understanding of theories concerning those two phenomena.¹⁰¹ Structured-focused comparison is structured in that the researcher asks a series of standardised general questions, reflecting the larger research objective, of each case. Questions are developed to reflect the underlying research objectives and conceptual focus of the thesis. And the method is focused in that delves into certain aspects of cases to yield cumulative findings. Case studies are undertaken with a specific research objective at hand.

The following questions will be considered in each case:

Bureaucratic Capacity: Does the relevant bureaucracy or ministry understand the issue being considered at international negotiations?

Bureaucratic Initiative: Does bureaucratic understanding affect the approach taken at negotiations?

Executive Power: Does the executive support the approach taken?

¹⁰⁰Alexander L. George and Andrew Bennett, *Case Studies and Theory Development in the Social Sciences*. (Boston: MIT Press, 2005), 67-73. Also see Alexander L. George, "Case Studies and Theory Development: The Method of Structured Focused Comparison," in *Diplomacy: New Approaches in History, Theory and Policy* ed. Paul Gordon Laren, (New York: Free Press, 1979), 43-68.

¹⁰¹Several scholars have used structured-focused comparison to study different historical episodes. Michael Krepon and Dan Caldwell employ structured focused comparison to consider how domestic political factors (U.S. Senate) affects the ratification of arms control treaties in the United States in 20th century. Michael Krepon and Dan Caldwell, (eds.) *The Politics of Arms Control Treaty Ratification* (New York: Springer, 1992); Patrick Haney used the approach to study how U.S. presidents have organised and managed advisory groups during foreign policy crises and how these groups have functioned during those times. Patrick J. Haney, *Organizing for Foreign Policy Crises: Presidents, Advisers, and the Management of Decision Making*. (Detroit: University of Michigan Press, 2002); Andrew Kennedy used the approach to study the diplomatic approaches of Mao and Nehru and how they sought to overcome hostile structural conditions through their own brand of diplomacy. See Andrew B. Kennedy, *The International Ambitions of Mao and Nehru: National Efficacy Beliefs and the Making of Foreign Policy* (London, Cambridge University Press, 2011)

Division of Powers: Does the legislative branch support the government's approach?

Interest Groups: What are the relevant interest groups and what are their policy preferences?

Informational Constraints: Do relevant interest groups have particular information or knowledge that influence the government's position?

Policy Advocacy: Do interest groups cultivate linkages with government officials in the policy area and effectively articulate their preferences to them?

Sources and Materials

I rely on various primary documents in each of the four cases covered. These documents - that include official positions of India toward the rule being negotiated, comments and memos from Indian negotiators and other officials representing India and position papers and other official documents submitted by the Indian delegation at international negotiations - were accessed from the internet archives of the regime covering each rule. For the CTBT, documents were accessed from the Conference on Disarmament's and U.N. Disarmament Commission's internet archives; Uruguay Round Trade Agreement from the GATT archives at Stanford University; FCTC from the World Health Organization's FCTC archives, Wellcome Trust library archives in London and the Tobacco Control Archives at University of California San Francisco; and FCCC from the FCCC Secretariat and UN General Assembly archives.

In each case, I also investigate the positions and actions of key political institutions – executive, legislature and bureaucracy to get a sense of their motivations before and as negotiations got underway. These views are obtained from a wide variety of sources – newspaper articles, memoirs, primary and secondary sources concerning the rule being negotiated. I have mined the Lok Sabha (Indian lower house) database to get a sense of how the Indian parliament acted as each rule was being negotiated. The proceedings and voting patterns of each parliamentary session from 1991 which detail speeches and positions of the house and individual members have been posted on the

Internet. In addition, I have relied on the Indian Government's Public Information Bureau's internet archive to access a range of sources on the policies and positions taken by the Prime Minister, Cabinet and each minister on the issues being covered here. I have also drawn from several Indian newspapers including the *Times of India*, *The Indian Express* and *The Hindu* that covered negotiations as they unfolded.

Supplementing these primary and secondary materials, I have conducted 20 interviews with relevant government and non-governmental officials involved during the course of negotiations or around the time of negotiations of each of the four rules investigated in this thesis. These interviewees include official Indian negotiators on all four cases who were present at negotiations, bureaucrats from the ministry representing India at negotiations some of whom had done preparatory work before hand, officials from relevant international and non-governmental organisations who have worked with Indian negotiators and have knowledge of India's positions on each of these rules and journalists and academics who have conducted research and reporting on these four issues.

Ethical Considerations and Implications

At this moment, it is important to expound on the process of elite interviewing, the implications of drawing from the interview data gathered and describe the ethical implications of conducting the interviews. Before fieldwork, I applied for low-risk ethical approval to conduct research on this topic, which was granted. All the interviews were conducted either in person in New Delhi, telephonically or in one instance via email. The sample of interviewees consisted of current and former Indian government officials involved either in the run-up to or the process of international negotiations, officials from international organizations involved either directly or indirectly in each of the four sets of negotiations, officials from think tanks and non-governmental organizations in India who were either formally or informally involved advising the government on negotiations and finally academics and scholars who have expertise in that particular issue being negotiated. Participants were identified through a thorough review of primary and secondary literatures covering India's negotiations of these four rules. Some interviewees were identified through the virtual archives in the international organization that document the proceedings of these negotiations including lists of

delegates who negotiated on behalf of member states and how many meetings they attended as official delegates. After the participants were identified, they were sent a uniform recruitment email that included the author's institutional details, synopsis of the project and the ethical implications of participation, should they agree. Once interviewees agreed, they were given the choices of three options given their identity and the sensitivity associated with disclosing certain aspects of international negotiations. The options were – (i) disclose full name and institutional identity (past or current) (ii) withhold name but disclose institutional identity (past or current) (iii) anonymous. Most of the interviewees chose the first option with some picking the second and third. Before the interviews, the participants were given consent forms noting their consent for the interview.

All the interviews were semi-structured. Broadly, the interviewees were asked questions regarding the background conditions, political and institutional, around international negotiations; what the process of negotiations was like and if they were involved either directly or indirectly; what their primary approach was during negotiations and how they went about trying to achieve their objectives. The process of elite interviewing allows the researcher to elicit rich perspectives on the process of negotiations and how they transpired. However, there are limitations to this approach and method; specifically, a key concern is the reliability of the interview data given the identities of the individuals involved. Some interviewees might attempt to inflate their role during negotiations or underplay the effect of other factors and individuals. To guard against this problem, I have taken some precautions. First, I have extensively mined the institutional/virtual archives for minutes of the proceedings at negotiations. These minutes generally provide the identity of the Indian negotiator present and their official remarks and statements. While synthesising and analysing the interviews, I have compared the proceedings with the interview data to gauge the veracity of the latter. Also, I have relied on newspaper materials that covered negotiations contemporaneously, official statements from the Indian government and parliament and other secondary sources including oral histories of Indian officials and negotiators to get a balanced perspective of each set of negotiations and how Indian officials presented India's positions there. I have triangulated from all these materials to robustly recreate the politics and process around international negotiations and infer how the Indian delegation negotiated.

Through these various methods and materials, I strove to recreate the approach and position taken by Indian officials toward each international rule covered in this thesis. I employ structured-focused comparison and process tracing to help analytically chart the process through which Indian officials negotiated the rule and sketch the conditions that led to the final outcome. One potential flaw with this particular method is that it focuses with only certain aspects of case studies, which could make us ignore other factors that could have had an impact in the events being described. Nonetheless, it is a valuable tool to generate knowledge on particular historical problems.

The following four chapters test the framework against the four cases – Framework Convention on Tobacco Control (FCTC), Framework Convention on Climate Change (FCCC), Comprehensive Test Ban Treaty (CTBT) and Uruguay Round Trade Agreement. The final chapter provides concluding thoughts on the thesis and asks whether a new approach is required to conceptualise India and explain her behaviour.

Chapter Three - India and the Framework Convention on Tobacco Control

Introduction

This chapter covers India's ratification of the Framework Convention on Tobacco Control (FCTC). Through the FCTC, member states agreed to adopt a series of measures and standards to limit tobacco use worldwide. FCTC became the first international public health treaty negotiated by WHO member states more than sixty years after the international organisation's inception. The chapter first provides a brief historical background of the developments leading to FCTC negotiations before describing India's behaviour toward the framework convention. Next, the chapter asks why India's ratification and leadership was puzzling with respect to the FCTC. After that, the chapter provides an analytical narrative that describes how interests, institutions and interest groups interacted to determine India's approach at FCTC negotiations and subsequent ratification. Briefly, as the Ministry of Health and Family Welfare (MoHFW) learnt more of the deteriorating tobacco use problem in India, they sought to curb it through various policy measures. Health officials established close linkages with domestic tobacco control groups with whom they partnered with to solidify tobacco control at home through a comprehensive tobacco control legislation – COTPA. This process coincided with FCTC negotiations. Soon thereafter, armed with robust knowledge on tobacco use and control, Indian health officials sought to negotiate a tough framework convention that resembled the domestic legislation in intent and purpose leading to ratification soon after negotiations.

Background

By the mid-1990s, tobacco use was a leading cause of disease and premature death. A steep rise in cigarette smoking coupled with consumption of other tobacco products resulted in roughly 3.5 million deaths worldwide in 1999.¹ Tobacco use also increased worldwide with tobacco companies moving to developing countries after confronting regulatory difficulties in the U.S. and Europe. Between 1975 and 1994, total cigarette

¹Prakash Jha, et al, "Tobacco Addiction," in *Disease Control Priorities in Developing Countries*. Ed. D.T. Jamison et al (Washington D.C.: World Bank, 2006), 879.

sales in the U.S. dropped by 20 percent even as production grew by 11 percent.² Laws on tobacco consumption were generally weaker in developing countries with some actively promoting tobacco cultivation and exports. With support from the U.S. and other industrialised countries, international tobacco companies found additional market access for their products through the General Agreement on Tariffs and Trade (GATT). By 1994, tobacco exports were \$200 billion (US) up from \$50 billion (US) in 1975.³

As the tobacco industry globalised and tobacco-induced deaths shot up, there was no clear impetus to curb tobacco use from international public health authorities. Though the World Health Organization (hereafter WHO) had the authority to tackle the troubling situation by negotiating an international treaty to regulate tobacco use, it chose not to exercise its treaty-making power enshrined in Article XIX of its constitution.⁴ The WHO proved reticent to consider a tobacco treaty given little support for the idea from existing member states; member state support was difficult to obtain since only about ten countries had comprehensive tobacco control policies and almost none in the developing world.⁵ Some senior WHO officials found an international treaty unviable for this reason; instead, they preferred a softer non-binding instrument to regulate global tobacco use.⁶ But the idea of an international tobacco treaty had traction because it gave WHO the authority to stem the tobacco scourge instead of relying on other international organisations, like GATT, to act.

In 1995, WHO officials began exploring strategies to draft a treaty on tobacco control.⁷ Strong support came from the newly elected WHO Director General Gro Harlem Brundtland who backed her officials to get on with the task.⁸ Soon thereafter,

²Allan Brandt, *The Cigarette Century: The Rise, Fall, and Deadly Persistence of the Product that Defined America* (New York: Basic Books, 2009), 457.

³American trade officials worked diligently to pry open foreign markets from the 1970s by challenging bans on tobacco imports and high tariffs. Concerted industry lobbying helped facilitate this cause; the industry had, since 1959, been committed to the idea of a “global smoker” and the promotion of “global brands.” Brandt, *The Cigarette Century*, 458-59.

⁴Thomas Bollyky claims FCTC was not the first global health treaty. He points to the International Sanitary Regulations, a binding treaty, which later became the International Health Regulations negotiated in 1952 by the WHO. FCTC, however, was the first treaty negotiated through Article XIX of WHO constitution. Thomas Bollyky and David Fidler, “Has a Global Tobacco Treaty Made a Difference?” <http://www.theatlantic.com/health/archive/2015/02/has-a-global-tobacco-treaty-made-a-difference/386399>.

⁵L.A. Reynolds and E.M. Tansey, *WHO Framework Convention on Tobacco Control* (London: Queen Mary, University of London, 2012)

⁶K. Srinath Reddy, Public Health Foundation of India. Interview by author. February 10, 2015.

⁷Brandt, *The Cigarette Century*, 472.

⁸*Ibid*, 474.

the WHO devised an agenda for a Framework Convention on Tobacco Control (hereafter FCTC) and areas it would cover.⁹ WHO member states agreed that the framework convention would pronounce certain core principles and policies on tobacco control that would be implementable through legislation and other policies by member states that ratified.¹⁰ States agreed the key focus should be ‘reduction in tobacco use’ through various policy measures like taxes, regulation, enforcement and education of the risks around tobacco use.¹¹ A majority of delegates at the WHO called for a tough but general treaty that left enough room for member states to ratify and use that model to bolster tobacco control policies.¹²

India was one such developing country that had an alarming tobacco use problem. In 1989, tobacco-attributable deaths in India were 630,000 per year with most deaths caused by smokeless tobacco use.¹³ By 2000, tobacco-related deaths in India nearly reached a million (920,000) per year with deaths rising among those who smoked cigarettes.¹⁴ Since existing tobacco laws did not regulate public consumption, levels of exposure to second hand smoke rose nearly 30 percent in the 1980s.¹⁵ The resultant health costs were severe. Among men, nearly half of all cancers were tobacco-related and among women, a quarter.¹⁶ A shorthanded focus on regulating cigarettes alone through the 1975 Cigarettes Act led to a meteoric rise in oral cancers, which nearly 160,000 Indians developed each year from oral consumption.¹⁷ Treating these tobacco-related diseases cost the Indian government approximately US\$6.5 billion in 1999.¹⁸

When the draft FCTC arrived in New Delhi for review, officials from the Indian

⁹Until then, framework conventions were used to tackle environmental issues like climate change and ozone depletion beyond the scope of a single state to address. It was unclear, though, if tobacco control met the threshold for a framework convention since tobacco control policies were drafted and implemented by member states. See Reynolds and Tansey, *WHO Framework Convention on Tobacco Control*, 11.

¹⁰Ibid, 12-15.

¹¹Ibid.

¹²Ibid.

¹³K. Srinath Reddy and P. C. Gupta, *Tobacco Control in India* (New Delhi: Shree Om Enterprises, 2007), 27.

¹⁴Riti Shimkhada, and John W. Peabody, “Tobacco Control in India,” *Bulletin of the World Health Organization*, 81, 1 (2003): 49.

¹⁵C.M. Singh, Amit Kaushik, and P. K. Jain, “Tobacco Control in India—Lots need to be done....” *Indian Journal of Community Health* 23, 2 (2011): 51.

¹⁶World Health Organization. *Tobacco or Health: A Global Status Report* (Geneva: WHO, 1997), 2.

¹⁷Kenneth E. Warner, “The Role of Research in International Tobacco Control,” *American Journal of Public Health* 95, 6 (2005): 977.

¹⁸Shimkhada and Peabody, *Tobacco Control in India*, 49.

Ministry of Health and Family Welfare (hereafter MOHFW) proved enthusiastic and willing to negotiate a tough and instantly applicable framework convention. Tobacco use imposes considerable costs for developing countries like India when considered from an economic and public health perspective. Sustained tobacco use can result in illnesses that erode employee productivity; moreover, premature deaths from tobacco use deprive governments of tax revenues from citizens in their prime years. Such losses are further compounded by medical costs accompanying tobacco use. Consequently, international or domestic rules that curb tobacco use and lower the burden of medical and economic costs are crucial given the importance of economic growth to developing countries. India accepted the need for a treaty on tobacco control and that, broadly, provisions should constrain the international tobacco industry by enhancing tobacco regulations.

At FCTC negotiations, Indian negotiators laboured alongside other developing countries to ensure provisions tightened rules around international tobacco commerce, particularly advertising and distribution of tobacco products. Indian officials also represented the interests of key Asian and other developing countries struggling to contain domestic tobacco use. Indian negotiators also pushed for the framework convention to provide financial and technical assistance to enable developing countries build capacities to reduce tobacco use and compensate citizens employed in the tobacco industry whose livelihoods were at risk from tougher international rules. India was among the first signatories of the FCTC, signing and ratifying the framework convention soon after negotiations.

Puzzle – India’s FCTC behaviour

India’s leadership while negotiating the FCTC and subsequent ratification is puzzling for two reasons. First, India was not widely regarded as a WHO member state keen on tobacco control. The Indian health ministry steered clear of regulating tobacco use or minimising its public health effects until the mid-1990s. Health officials had little knowledge of tobacco prevalence across the country with virtually no reliable statistics on tobacco use and if such use caused disease and death. For decades, the only piece of tobacco legislation was the 1975 Cigarettes Act that sought to restrict illegal trade and distribution of cigarettes across the country and ensure cigarette packages displayed

adequate health warnings.¹⁹ But the law, however, only regulated cigarettes, leaving out smokeless tobacco products that were heavily used across India.²⁰ For a country with a bleak record on tobacco control, India's behaviour at FCTC negotiations was a clear departure.

Second, India's behaviour is puzzling because the Indian government fostered tobacco production. From 1951-1991, the acreage provided to grow tobacco and subsequent production levels grew at a commensurate pace; no surprisingly, this surge generated significant excise revenues for the government.²¹ Subsidies, debt relief and other tax incentives were given to tobacco farmers across India.²² By 1992, India was the third largest tobacco-growing country, producing nearly '7 percent of the world's total unmanufactured tobacco and 14 percent of the world's total manufactured tobacco' in the form of cigarettes and *beedis*.²³ Combined, the industry contributed nearly 10 percent of the Indian government's total excise revenue in 1995 with potential to grow.²⁴ With a booming domestic tobacco industry, India should have resisted negotiations and rejected the FCTC instead of leading to negotiate and ratify it.

To address this puzzle and explain why India negotiated and signed the FCTC with such interest, we need to grapple with how key state institutions, particularly the Ministry of Health and Family Welfare, and domestic tobacco control activists and groups understood and acted on the problem of tobacco use in the mid-1990s. In short, a better understanding of tobacco consumption and its effects by the Ministry of Health generated a strong stance at FCTC negotiations. The Indian Prime Minister and tobacco control groups who wanted the government to upgrade domestic tobacco laws and ratify the FCTC endorsed this approach. Next, I provide an analytical narrative of how institutions and interest groups sought to make the government realise the importance of tobacco control leading to two notable political achievements – the passage of a comprehensive tobacco control legislation Cigarettes and Other Products Act (COTPA) and ratification of the Framework Convention on Tobacco Control.

¹⁹Ibid, 49.

²⁰Rahul Mehrotra, V. Mehrotra, and T. Jandoo, "Tobacco Control Legislation in India: Past and Present," *Indian Journal of Cancer*, 47, 5 (2010): 75.

²¹K. Srinath Reddy, "History of Tobacco in India," (lecture, New Delhi, August 12 2004)

²²Ibid.

²³Shimkhada and Peabody, *Tobacco Control in India*, 50. Beedis are indigenous tobacco products generally consumed with heat.

²⁴Sharad Vaidya "Tobacco, a Health Issue First," *The Times of India* May 01, 1977, 3.

Narrative – India and the Framework Convention on Tobacco Control

Understanding India's Tobacco Problem

By the early 1990s, the Indian government faced a major tobacco use problem but one it had little understanding of. As briefly mentioned, the health ministry did not have sound data or reliable statistics on tobacco use and how the situation affected public health. Concurrently, successive governments promoted tobacco as an export crop that yielded considerable revenues to government through excise duties and taxes. An abundance of tobacco resulted in the manufacturing of an array of tobacco products consumed in myriad forms. Distressingly, most tobacco products, particularly those consumed in oral or nasal forms, were largely unregulated.

The parlous state of affairs spurred scientific research on tobacco use. New scientific research, from the early 1990s, vividly illuminated the social and public health consequences of tobacco consumption, in all forms. One of the pioneers responsible was P.C. Gupta, Indian epidemiologist turned public health activist, who uncovered several important aspects of the tobacco problem - particularly the rise of smokeless tobacco use²⁵ and its health effects, levels of youth tobacco consumption,²⁶ growing urban use of tobacco²⁷ and the relationship between tobacco use and health conditions including TB, heart and lung disease.²⁸ By 1995, Gupta's research established that a 'clear and coherent link existed between tobacco use and morbidity.'²⁹ Importantly, the failure of the existing 1975 Cigarettes Act that only regulated cigarettes came alive through grim morbidity and mortality figures.

²⁵Gupta's research on smokeless tobacco use. See P. C. Gupta, D. K. Daftary, and Fali S Mehta, "Oral Submucous Fibrosis as a Precancerous Condition," *European Journal of Oral Sciences* 92, 3 (1984): 224-229.; P.C. Gupta, "An Intervention Study of Tobacco Chewing and Smoking Habits for Primary Prevention of Oral Cancer among 12 212 Indian villagers," (1986): 307-18.

²⁶Gupta's research on youth tobacco use. See P.C. Gupta, "Health Consequences of Tobacco Use in India," *World smoking and health* 13 (1988): 5-10.; P.C. Gupta, and Keith Ball, "India: tobacco tragedy," *The Lancet* 335, 8689 (1990): 594-595.; P.C. Gupta, Simon Chapman, Elizabeth. M Whelan, John James, and Aidan Macfarlane, "Teenage smoking," *The Lancet* 346, 8978 (1995): 846-847.

²⁷Gupta's research on urban tobacco use in India - See P.C. Gupta, Mangesh S. Pednekar, D. M. Parkin, and R. Sankaranarayanan, "Tobacco Associated Mortality in Mumbai (Bombay) India. Results of the Bombay cohort study," *International journal of epidemiology* 34, 6 (2005): 1395-1402.

²⁸Gupta on tobacco and morbidity - See P.C. Gupta, R. Sankaranarayanan, and Jacques Ferlay, "Cancer deaths in India: is the model-based approach valid?" *Bulletin of the World Health Organization* 72, 6 (1994): 943; P.C. Gupta, "Cigarette Smoking in China—A Message for India," *The National medical journal of India* 10, 2 (1997): 74; P.C. Gupta, "Survey of Socio-Demographic Characteristics of Tobacco Use among 99,598 individuals in Bombay, India using handheld computers," *Tobacco control* 5, 2 (1996): 114-120.

²⁹P.C. Gupta, Indian Epidemiologist, Interview by author, February 6, 2015.

Scientists and epidemiologists building the evidentiary base for tobacco use cultivated linkages with physicians and non-governmental activists raising awareness on the perils of sustained tobacco consumption.³⁰ Gradually, the collaboration led to several publications revealing the perils both of sustained tobacco use in India and government inaction.³¹ More research and civil society consultations with government made health officials realise the gravity of the tobacco problem. Two trends struck health officials as particularly problematic.³² First, they were alarmed by tobacco prevalence among particular groups - specifically youth and women.³³ Research revealed young smokers started smoking before turning eighteen driven by targeted tobacco advertising and peer-pressure.³⁴ Anti-tobacco advocates implored the government to limit tobacco use amongst the youth given focused marketing strategies of tobacco companies that 'reinforced the social acceptability of smoking.'³⁵ The second worrying trend was the meteoric rise in smokeless tobacco use that was laid bare through bleak oral cancer statistics.³⁶ The rise in the number of women tobacco consumers was largely due to smokeless tobacco.³⁷ Smokeless consumption, both oral or nasal, also cut across prevailing socio-economic divides – class, gender, age and urban-rural.³⁸

This understanding led to a major national conference on tobacco use in 1991 steered by the Government of India that brought together WHO officials, state

³⁰Shoba John, Programme Director, Healthbridge. Interview by author. New Delhi, January 23, 2015.

³¹K. Srinath Reddy. In 1992, Gupta organised a major international conference on tobacco use in Asia that highlighted the burgeoning problem in India. At the conference, several papers were presented around domestic and international tobacco control professionals working to raise awareness of the issue. See P.C. Gupta, Prakash C., and James E. Hammer, *Control of Tobacco-Related Cancers and other Diseases: An International Symposium, January 15-19, 1990*, (Bombay: Tata Institute of Fundamental Research, 1992).

³²Former Joint Secretary, Ministry of Health, Government of India. Interview by author. February 11, 2015.

³³Ibid.

³⁴P.C. Gupta, "Tobacco Control in the South Asia Region," *Tobacco control* 3, 2 (1994): 170.; P.C. Gupta, Simon Chapman, Elizabeth M Whelan, John James, and Aidan Macfarlane, "Teenage smoking," *The Lancet* 346, 8978 (1995): 846-847.; Also see Kapoor, S. K., K. Anand, and Guresh Kumar. "Prevalence of Tobacco Use among School and College going Adolescents of Haryana." *The Indian Journal of Pediatrics* 62, 4, (1995), 462.

³⁵Rupa Chinai, "Anti-tobacco lobby opposes expansion of transnationals," *The Times of India*, May 29, 1997, 4.

³⁶P.C. Gupta, "Smokeless Tobacco Use in India," *Smokeless Tobacco or Health: An International Perspective* (1992): 19-25.

³⁷Reddy, *History of Tobacco in India*.

³⁸P.C. Gupta, "Health consequences of Tobacco Use in India," *World smoking and health* 13, (1988): 6.; P.C. Gupta, R. Sankaranarayanan, and Jacques Ferlay, "Cancer deaths in India: is the model-based approach valid?" *Bulletin of the World Health Organization* 72, 6 (1994): 943.

governments, epidemiologists, public health analysts and tobacco industry representatives. The MOHFW organised the conference and played a coordinating role, soliciting opinions and ideas on national tobacco trends from a range of stakeholders, including NGOs, scientists and the tobacco industry.³⁹ Through the conference and discussions under the heading ‘Tobacco or Health,’ tobacco use was presented as a public health, not economic, issue that required an ‘inter-sectoral’ policy approach.⁴⁰ The framing was significant since the domestic tobacco industry had presented tobacco as a ‘socio-economic issue’ that had little attendant human costs; indeed, this claim was being steadily dented by research detailing tobacco-attributable mortality rates.⁴¹ Delegates present suggested several policies to enhance tobacco control. Most importantly, they advised the government to examine how existing laws can be strengthened to reduce the demand, distribution and consumption of tobacco products. Given conflicting economic considerations that had often attenuated tobacco control, the health ministry was encouraged to institute an expert committee to investigate the economics of tobacco use.⁴²

Getting Tough on Tobacco – Bureaucracy Takes Charge

After the conference, the MOHFW enacted several policy measures to tighten tobacco control. Since tobacco was predominantly consumed through smokeless unpackaged products, the MOHFW amended provisions of the Prevention of Food Adulteration Act that mandated every tobacco package, especially in oral and nasal forms, display a clear warning sign.⁴³ Then the cabinet secretariat issued an administrative order prohibiting smoking in specified public places including government hospitals, dispensaries and educational institutions; New Delhi also urged state governments to discourage the sale of tobacco products near educational and health institutions.⁴⁴ These moves were, however, questioned by domestic tobacco manufacturers that expanded production and invested more on product marketing and distribution.⁴⁵ Nonetheless, growing government interest on tobacco control signalled that more policies could be in the

³⁹Former Joint Secretary, Ministry of Health, Government of India. Interview by author. January 22, 2015.

⁴⁰Government of India, *National Conference on Tobacco or Health*. (New Delhi: Ministry of Health and Family Welfare and World Health Organization, 1991)

⁴¹Shimkhada and Peabody, *Tobacco Control in India*, 51.

⁴²*Ibid.*

⁴³Reddy, *History of Tobacco in India*, 2.

⁴⁴*Ibid.*

⁴⁵Arun Varghese, “India’s Future May Go up in Smoke,” *The Times of India*, May 27, 1997, 1.

pipeline to strengthen tobacco control.

In 1995, the Parliamentary Committee on Subordinate Legislation reviewed the efficacy of 1975 Cigarettes Act. The committee recommended measures to extend warnings to cover all forms of tobacco and endorsed a complete ban on tobacco advertising at public places with additional emphasis on educating the public on the perils of sustained consumption.⁴⁶ The MOHFW also formed an expert committee in 1997 to investigate the economics of tobacco production and use.⁴⁷ The committee's mandate was to compare the trade-offs for government between public health costs from tobacco use and revenues generated by the tobacco industry.⁴⁸ This dilemma had to be resolved before the MOHFW could draft a comprehensive tobacco control legislation. Politically, it was crucial since nearly 2 million Indians were employed by the tobacco industry, individuals who stood to be affected by enhanced controls; but, given the committee's suggestion, decisions concerning their economic future would have to be made by accounting for the health of all Indian citizens.⁴⁹

The expert committee's report, released in 1999, concluded that the 'indirect, incidental, short run presumed benefits in terms of employment, output, foreign exchange earnings, tax revenue, etc., are there because consumers are in various ways induced and addicted' on tobacco.⁵⁰ Going further, the committee argued that 'costs of medical treatment and other external costs incurred by the patients and society are even in their underestimated form so staggering as to dwarf the putative indirect financial benefits' gained by the government through tobacco promotion.⁵¹ Put simply, financial gains from tobacco promotion and revenues generated through taxes paled in comparison to the costs, current and future, from the medical treatment of tobacco-related diseases. The report proved vital since the MOHFW was relying on the committee's imprimatur to reorient their policy approach that swung decisively in favour of tobacco control.⁵² The report also gave the ministry sufficient cover to

⁴⁶Mehrotra et al, *Tobacco Control Legislation in India*, 75.

⁴⁷Government of India, *Order: Expert Committee on the Economics of Tobacco Use*. Ministry of Health and Family Welfare, 1996.

⁴⁸*Ibid.*

⁴⁹*Ibid.*

⁵⁰Government of India, *Report of the Expert Committee on the Economics of Tobacco Use* (New Delhi: Ministry of Health and Family Welfare and World Health Organization, 2000)

⁵¹*Ibid.*

⁵²*Ibid.*

enhance tobacco regulations given expected resistance from the tobacco industry.⁵³

Concurrently, the incoming National Democratic Alliance (NDA) government led by the Bharatiya Janata Party (BJP) moved to constrain tobacco promotion. Prime Minister Vajpayee urged tobacco farmers to grow alternate crops given the ‘health hazards caused by tobacco usage’ and impending difficulties tobacco companies faced from enhanced regulatory controls and negative publicity.⁵⁴ Speaking to farmers in Andhra Pradesh, Vajpayee urged them to switch to other crops ‘because of financial constraints’ that New Delhi incurred by subsidising them.⁵⁵ New Delhi also encouraged states like Karnataka and Andhra Pradesh to cut subsidies given to the tobacco industry despite their reluctance.⁵⁶ Excise duties on tobacco were increased in states like Tripura and Assam where tobacco companies had moved production.⁵⁷ These measures suggest that the Indian government was preparing to disengage from the tobacco trade, albeit fitfully; however, this focus did not extend to domestic cigarette companies that were exploring joint initiatives with multinational tobacco companies to expand operations in India.⁵⁸ Smokeless tobacco proved more pressing for the government to arrest than cigarettes, at least early on.

These policies were the immediate precursor to the Indian government’s larger tobacco control initiative. In January 2000, Parliamentary Affairs Minister Pramod Mahajan stated that the government was on the cusp of introducing a comprehensive tobacco control legislation to reduce tobacco use.⁵⁹ Before tabling the bill, Mahajan shared the government’s reasoning, ‘an estimated 13,517 Crore Rupees would be required to provide treatment to persons suffering from tobacco control diseases which was much more than what was earned by the production and sale of tobacco products.’⁶⁰ The government acted in accordance with the expert committee report’s conclusion that ruled on the economics-health trade-off vis-à-vis tobacco use. With political support, the MOHFW drafted and submitted a comprehensive tobacco control legislation – Cigarettes and Other Tobacco Products Act (hereafter COTPA) for cabinet approval in

⁵³Bhavani Thygarajan, Former Joint Secretary (Tobacco Control), Ministry of Health, Government of India. Interview by author. New Delhi. January 12, 2015.

⁵⁴“PM tells tobacco farmers to grow alternative crops,” *The Times of India*, June 23, 2000, 7.

⁵⁵*Ibid.*

⁵⁶Srinivasa Prasad, “Shortfall in Tobacco Production Likely,” *The Times of India*, July 3, 1996, 15.

⁵⁷Alpana Varma, “Tobacco to be an adult choice now,” *The Times of India*, November 13, 1999, 13.

⁵⁸Chinai, *Anti-tobacco lobby opposes expansion of transnationals*, 3.

⁵⁹“1m. tobacco related deaths take place in India.” *The Times of India*, February 7, 2000, 6.

⁶⁰*Ibid.*

February 2000.⁶¹

COTPA sought to better regulate the domestic tobacco industry by encumbering it with an array of rules covering the production, distribution and consumption of tobacco. As such, the bill was more an economic than a health legislation given underlying causes - abundance of regulated and unregulated tobacco products that led to sustained tobacco consumption. In less than a decade, health officials internalised the dangers of sustained tobacco use by conducting a major national conference on tobacco control and establishing various committees to study the problem and advise on remedial actions. These efforts served as the basis to draft a new comprehensive tobacco control law that renewed controls on tobacco advertising and production, in particular, to reduce smokeless tobacco use and cigarette smoking among the youth; emphasis was also given to enhance policies on prevention and cessation. COTPA was the culmination of several policy measures taken by the health ministry from 1991.

Crucial here was the NDA government's new health minister C.P Thakur who drove his ministry to complete the bill's drafting upon entering office.⁶² Thakur's arrival and understanding of tobacco use, being a physician himself, accelerated the bill's completion. At a speech to launch the bill, Thakur was unambiguous on the need for a comprehensive legislation calling tobacco a 'major public health problem' and a 'killer' that must be 'curtailed, if it cannot be totally stopped.'⁶³ Thakur also secured Prime Minister Vajpayee's support for the bill.⁶⁴ Not only was Vajpayee concerned of mounting health costs from tobacco use, he also had a personal interest in tobacco control. At the inauguration of a cancer institute in 2000, Vajpayee wistfully recalled the death of both his parents from cancer after chewing tobacco for decades, 'it is my misfortune that both died of cancer.'⁶⁵

Executive support on tobacco control was significant since hitherto Indian Prime Ministers rarely acted on the issue, instead delegating matters to health ministers.⁶⁶ Vajpayee understood the importance of the costs of tobacco use to the Indian economy

⁶¹"Health ministry sends draft bill on tobacco use for cabinet approval," *The Times of India*, February 4, 2000, 8.

⁶²Ibid.

⁶³C.P. Thakur, "Tobacco Control: Everybody's Concern," *Press Information Bureau*, February 11, 2000.

⁶⁴Bhavani Thygarajan.

⁶⁵"PM tells tobacco farmers to grow alternate crops," *The Times of India*, 2000. June 23, 12.

⁶⁶Shoba John.

and effects the product was having on the youth, core targets of domestic and international tobacco companies.⁶⁷ Vajpayee also endorsed strengthening international standards on tobacco control. In January 2000, the government convened an international conference in New Delhi to ‘obtain a developing country perspective’ toward the negotiation of an international treaty on tobacco use.⁶⁸ The meeting, inaugurated by Prime Minister Vajpayee and WHO Director General Brundtland, sought to grasp the developing country context around tobacco use, understand the political and technical parameters of the issue and reiterate the importance of comprehensive approaches to tobacco control. In his speech, Vajpayee exhorted the assembled audience to take the tobacco problem seriously and look beyond ‘quick revenue generation from the sale of tobacco related products.’⁶⁹ The Prime Minister stressed the widespread dangers tobacco posed to India that cut across fault lines including class, ethnicity, gender and caste.⁷⁰

Despite his clear commitment to tobacco control, Vajpayee did not entirely dispense with the concerns of Indian tobacco farmers. Quite directly, Vajpayee proclaimed international tobacco control to be inadequate unless ‘accompanied by alternative modes of income for those dependent on tobacco.’⁷¹ Politics also factored here; several trade unions submitted official memorandums imploring Vajpayee to reject the international tobacco treaty given ‘important economic consequences to the country’ which moderated his strong personal desire for tough tobacco control.⁷² Near the end of his remarks, Vajpayee called for the WHO to lead in weaning middle and lower income countries off the surging tobacco use problem; active international leadership alongside financial assistance, he added, was critical given sizeable tobacco constituencies in the developing world that had to be compensated.⁷³ With this strong background and foundation, the MOHFW was set for FCTC negotiations.

⁶⁷Former Secretary of Health, Government of India. Interview by author. January 30, 2015.

⁶⁸“PM for package to deal with tobacco menace,” *The Hindu*, January 8, 2000. 2.

⁶⁹*Ibid.*

⁷⁰*Ibid.*

⁷¹World Health Organization, *Report of the International Conference on Global Tobacco Control Law*. (New Delhi, WHO India, 2000)

⁷²“Smoke Alarm,” *The Times of India*, April 15, 2000, 12.

⁷³World Health Organization, *Global Tobacco Control Law: Towards a WHO Framework Convention on Tobacco Control*. Report of an International Conference. (New Delhi: WHO, 2000)

Switching Gears – COTPA to FCTC Negotiations

With COTPA drafted and tabled in parliament, the MOHFW switched gears to review the draft FCTC before negotiations. Incidentally, domestic progress leading to COTPA cohered with the draft framework convention that, likewise, sought to better regulate tobacco production and distribution and foster public awareness of tobacco use. The draft could not have arrived at a better time given the range of policy measures enacted by the government on tobacco control and efforts taken to reform existing tobacco laws. Using the knowledge and experiences, Indian health officials prepared a ‘solid and strong brief for negotiations.’⁷⁴ According to Salim Habayeb, former WHO India director, ‘when FCTC materialised, the MOHFW was highly interested and enthusiastic about it. Our Indian counterparts proceeded by conviction and external persuasion was unnecessary.’⁷⁵

Assisting Indian health officials with the draft framework convention was the WHO India office that ‘provided legal consultants to the ministry who provided counsel and evidence on various aspects of tobacco control - advertising, warnings, packaging, nicotine content, and ran training and multi-sectoral workshops on tobacco control in the ministry.’⁷⁶ Habayeb recalls ‘we assisted and engaged with actors in the whole cycle of work, starting with helping them develop their tobacco proposals and work plans. We strove to maintain the engagement, not only at the initial phases but also during the rollout, maintenance phases, and feedback time. We brought stakeholders together in workshops and seminars to network, to evaluate, and share good practices on tobacco control.’⁷⁷ But even before that Habayeb noted that ‘the MOHFW was fully committed to the prevention of tobacco use, not just in rhetoric but actual deed, as demonstrated by the ministry’s myriad activities and its direct and full funding of the WHO’s Tobacco Free Initiative (TFI). These initiatives predate the FCTC.’⁷⁸

The Indian delegation at FCTC negotiations consisted of a rotating team of

⁷⁴K. Srinath Reddy.

⁷⁵Salim Habayeb, Former Director, WHO India. Interview by author (e-mail). January 26, 2015.

⁷⁶Vineet Gill, National Officer, WHO India. Interview by author. January 22, 2015.

⁷⁷Salim Habayeb.

⁷⁸Ibid.

bureaucrats from MOHFW and outside experts seconded to assist.⁷⁹ The core negotiating team consisted of two seasoned bureaucrats, JVR Prasada Rao and Srinivas Tata, both of whom were involved in drafting COTPA. Both also had a key role in preparing India's FCTC brief consisting of India's positions on provisions covering tobacco regulation, advertising and marketing of tobacco products and tobacco outreach and advocacy.⁸⁰ Srinivas Tata recalls that 'once preparation for COTPA was complete, it became very relevant for the FCTC; essentially, the brief was influenced by the domestic law being debated. We had a progressive approach and stance, which helped FCTC preparations. COTPA was the culmination of several years of work and commitment from the health ministry. What we saw in parliament before the COTPA was the perception of an India that was a large tobacco growing state but this view changed with the bill.'⁸¹

At FCTC negotiations, seconded public health experts bolstered the Indian delegation's knowledge of tobacco control. One of these experts, K. Srinath Reddy, leading Indian cardiologist and tobacco control proponent, helped craft policy positions that India would present and defend at negotiations; combined, Reddy with Tata and Prasada Rao ensured India's positions remained consistent through negotiations.⁸² Dharendra Sinha, WHO regional advisor for tobacco control in Asia, noted that 'Reddy was a crucial figure in the Indian delegation. His expertise, articulateness, knowledge and political acumen advanced India's contribution and leadership within both regional and international discussions.'⁸³ Enhancing Reddy's knowledge and experience, Sinha added, was the health ministry that had done 'exceptional groundwork in preparing for the negotiations including drafting several position papers on important matters like advertising, regulation, illicit trade and financial assistance.'⁸⁴ Reddy's knowledge on tobacco control was well known from his experiences advocating for tightening domestic tobacco control, including his stint on the expert committee on the economics of tobacco use that 'gave succour to the health ministry to draft a new legislation and

⁷⁹Also contributing were Indian diplomats from the Permanent Mission of India in Geneva who advised health officials on the international politics around negotiations. Srinivas Tata, Former Indian FCTC Negotiator, Interview by author. January 25, 2015.

⁸⁰Ibid.

⁸¹Srinivas Tata.

⁸²K. Srinath Reddy.

⁸³Dhirendra Sinha, Regional Tobacco Control Advisor, WHO SEARO. Interview by author. January 21, 2015.

⁸⁴Ibid.

replace the ineffective Cigarettes Act.⁸⁵ The Indian delegation proved ready to negotiate a strong framework convention.

Shaping FCTC Provisions in Geneva

FCTC negotiations took place between WHO member states at six Intergovernmental Negotiating Body meetings (hereafter INBs) between 2000 and 2003. Negotiations were complex. From the outset, battle lines were drawn between most developing countries facing rising tobacco use and some developed countries that represented domestic tobacco interests. With international tobacco companies penetrating markets across the world with ease, the need for a multilateral consensus on tobacco control was palpable. This scenario also made the framework convention more relevant and urgent for developing countries that lacked the resources and institutional capacity to curb tobacco use. But this intent clashed with the interests of wealthier states like Germany, Japan and the United States where leading international tobacco companies were based.⁸⁶ Contests ensued over which international agreements, health or trade, would have precedence should WHO member states agree on rules that constrained the operations of tobacco companies; unsurprisingly, views were split with developing countries insisting the FCTC take precedence while developed countries like the United States and Japan preferred GATT.⁸⁷

One of the first debates at negotiations was over international financial assistance to help developing countries foster economically viable alternatives for domestic tobacco farmers and help implement FCTC provisions. India was at the forefront of these debates as a developing country that had a sizeable tobacco industry. With strides made toward enhancing existing tobacco controls through COTPA, the Indian delegation focused intensely on obtaining financial assistance for those citizens whose livelihoods were potentially harmed by tougher rules. Politically, this move would assuage anxieties of a domestic tobacco industry that could still foil COTPA. Indian negotiators lobbied for international financial and technical assistance, impelling

⁸⁵Srinath Reddy.

⁸⁶World Health Organization, *Summary Record: Intergovernmental Negotiating Body on WHO Framework Convention on Tobacco Control: First Session*. A/FCTC/INB1/SR. (Geneva: World Health Organization, 2004), 4.

⁸⁷WHO, *Summary Record: First Session*, 17.

developed countries to ‘spell out necessary mechanisms for providing support’ since ‘one could not simply wait the day when the reduced demand would automatically drive down the supply; one must proactively and progressively foster other economically viable channels.’⁸⁸ Financial assistance requests from developing countries were placed in the context of inadequate regulatory capacities on tobacco control that would have undermined ‘practical achievement of the convention’s objectives’ for countries confronting the problem head-on.⁸⁹ Nor did India want member states to wait until negotiations were complete to secure financial assistance; India’s chief negotiator Prasada Rao pushed for ‘assistance to be available to tobacco workers and growers immediately, without waiting for them to be affected’ by the framework convention.⁹⁰ To channel financial assistance, Indian negotiators championed the establishment of ‘a global fund financed by an export tax on manufactured tobacco products’ to help set up alternate livelihoods for citizens engaged in the farming and processing of tobacco.⁹¹ Until the final INB meeting, Indian negotiators kept the pressure up for this fund, even invoking colonial legacies as reason for the endurance of the tobacco industry that now ‘could only be remedied by clear and resolute international financial commitments.’⁹²

Indian negotiators also broadened the definition of tobacco at negotiations. At the second INB meeting, Reddy took to expand tobacco’s definition by clarifying that ‘several categories of tobacco were consumed in non-smoking forms in India and elsewhere.’⁹³ The expansive interpretation became more important not only because tobacco was being consumed in multiple forms in developing countries but to regulate levels of nicotine in all products since ‘some manufacturers were adding tobacco to several other products orally used.’⁹⁴ At the third INB, Reddy asserted that the treaty should insert ‘raw tobacco materials’ to the text in addition to the focus on processed tobacco products.⁹⁵ Again, the nub of the issue was that tobacco existed in several forms across the world, a fact the framework convention should reflect to be globally relevant.

⁸⁸Ibid, 105.

⁸⁹World Health Organization, *Summary Record: Intergovernmental Negotiating Body on WHO Framework Convention on Tobacco Control: Second Session*. A/FCTC/INB2/SR. (Geneva: World Health Organization, 2004), 3.

⁹⁰WHO, *Summary Record: First Session*, 105.

⁹¹WHO, *Summary Record: Second Session*, 125.

⁹²Ibid.

⁹³Ibid, 43.

⁹⁴Ibid.

⁹⁵Ibid, 98.

Indian epidemiologist P.C. Gupta noted that ‘India insisted that all forms of tobacco be part of the final treaty, this move was a key contribution. If you see in the final treaty, everywhere, it is tobacco and tobacco products. This definition became clear because of India’s emphasis.’⁹⁶

India’s Regional Leadership

At all six INB meetings, Indian negotiators represented WHO’s Southeast Asia bureau (hereafter SEARO) member state⁹⁷ interests and concerns on FCTC provisions including financial assistance, advertising, illicit trade, outreach, liability and compensation. The Indian delegation bagged regional leadership for two reasons. First, regional consensus on core FCTC provisions would help India and other Asian countries with similar interests represent their concerns better against developed countries interested in negotiating a feeble framework convention.⁹⁸ Issues like international financial assistance and advertising had real implications for developing countries waging a tough battle against an agile international tobacco industry. Second, India’s leadership arose out of convenience. Unlike other SEARO countries, Indian negotiators were relatively more knowledgeable on tobacco control, having drafted a tough domestic legislation, and were able to negotiate adroitly in English, the lingua franca of negotiations.⁹⁹

Indian negotiators chaired all four regional meetings from 2001-2003 to gather consensus on treaty provisions including advertising, financial assistance, oversight and taxation. In Jakarta, regional member states called for establishing ‘a global mechanism to monitor the trends and determinants of global tobacco consumption’ and help secure a global fund to assist developing countries meet the obligations of the proposed treaty.¹⁰⁰ Under Indian insistence, the Jakarta meeting pushed for other tobacco stakeholders, notably non-governmental organisations, to work with governments to

⁹⁶P.C. Gupta.

⁹⁷India was elected as the coordinator for countries of the WHO’s Southeast Asia Regional office (SEARO) for the INBs. WHO South East Asia Region has 11 Member States: Bangladesh, Bhutan, Democratic People’s Republic of Korea, India, Indonesia, Maldives, Myanmar, Nepal, Sri Lanka, Thailand, Timor-Leste. See “WHO: SEARO Countries,” <http://www.searo.who.int/countries/en>

⁹⁸Dhirendra Sinha.

⁹⁹K. Srinath Reddy.

¹⁰⁰World Health Organization, *Regional Intercessional Meetings on the Framework Convention on Tobacco Control: First Session. A/FCTC/INB1/1. Add.1*. Geneva: World Health Organization, 2003: 3.

‘create broad based partnerships’ and advance regional tobacco control.¹⁰¹ SEARO member states reaffirmed these pledges at the next meeting in Thimphu in 2002. After two days of intense negotiations, states hammered out the Thimphu Declaration that supported levying high taxes on tobacco companies.¹⁰² Also, the resolution reiterated the Jakarta meeting’s desire that adequate international support, financial and scientific, for developing countries be included in the final framework convention.¹⁰³

The Indian delegation was also requested by SEARO member states to act as their representative on advertising at FCTC negotiations. Developing countries were besieged by the marketing practices of an international tobacco industry venturing to their shores with zeal.¹⁰⁴ India experienced this problem first hand. Srinivas Tata, one of the Indian negotiators, attributed developing countries’ persistent desire for a tough advertising provision to the global reach of international tobacco, ‘as smoking reduced in the west, tobacco companies moved to the developing world. This situation made the matter far more practical for countries like India. Moreover, international tobacco companies were allying with domestic tobacco farmers and growers and using India as a base for tobacco commerce for India and the region.’¹⁰⁵

The Indian delegation resolved to tighten provisions on tobacco advertising. At the first INB, Indian negotiator Srinath Reddy called for the framework convention to be indiscriminate against advertising or sponsorship of all kinds, urging the convention to institute ‘a complete ban on all direct and indirect forms of tobacco advertising.’¹⁰⁶ Partial bans, Reddy argued, were ‘ineffective in controlling tobacco consumption’ because existing evidence deemed it impossible to screen products based on groups that consume them.¹⁰⁷ This position also rose out of discussions on COTPA that contained a provision prohibiting domestic tobacco advertising, except those at point of sale.¹⁰⁸

¹⁰¹Ibid.

¹⁰² Ibid.

¹⁰³World Health Organization, *Regional Intercessional Meetings on the Framework Convention on Tobacco Control: Third Session*. A/FCTC/INB3/4. Geneva: World Health Organization, 2003: 4.

¹⁰⁴The international tobacco industry had set their eyes on the Indian market from the early 1990s. A market review conducted by the Tobacco Reporter in 1994 highlighted the Indian market, in particular, calling it one of the ‘world’s best kept secrets’ for international tobacco. See “Opportunity in India,” *The Tobacco Reporter*, January, 1994, 8-11.

¹⁰⁵Srinivas Tata.

¹⁰⁶WHO, *Summary Record: Second Session*, 55.

¹⁰⁷Ibid.

¹⁰⁸“Opportunity in India,” *The Tobacco Reporter*, 9.

Moreover, in developing countries, unlicensed sale of tobacco made it difficult to regulate consumption, leaving advertising as a vital lever to curb tobacco use. Reddy's fellow delegate, Prasada Rao, reinforced this view at the fourth INB meeting, 'advertising should be banned universally, as it was a universal phenomenon.'¹⁰⁹ India's position on advertising, however, was contested by the U.S. and Germany that found a total advertising ban unconstitutional and antithetical to freedom of speech protections.¹¹⁰

At the next regional meeting in Jaipur in 2003, member states agreed for compensation and liability to be an 'integral part of a future draft protocol' given difficulties countries would seemingly face harmonising domestic legal provisions.¹¹¹ To avoid domestic tobacco interests from thwarting progress on this issue and other sensitive matters, like advertising and marketing, SEARO member states agreed to prioritise ratification of the draft framework convention before turning to matters pertaining to licensing, subsidies and taxes, issues that affected the commercial prospects of tobacco producers.¹¹² For them and other developing countries, the urgency of a ratified framework convention was integral given the rising costs of tobacco use.

India's position on the speed and duration of negotiations also became clear from regional consultations. Indian negotiators wanted a strong, reasonable and instantly applicable framework convention to restrain tobacco use and regulate the industry's robust marketing strategies; and they wanted the text to indicate to that effect giving developing countries the necessary justifications to craft strong domestic tobacco control laws. The Indian delegation wanted to see negotiation of draft protocols or the legally binding components directing states to institute particular actions to be dealt with after ratification.¹¹³ Aware of resistance from domestic lobbies and other ministries should protocols be discussed, Indian negotiators pushed for accelerating negotiations to produce a final text ready for ratification. COTPA also factored here; Indian negotiators hoped to capitalise from the propitious tobacco control conjuncture,

¹⁰⁹World Health Organization, *Summary Record: Intergovernmental Negotiating Body on WHO Framework Convention on Tobacco Control: Fourth Session*. A/FCTC/INB4/SR. (Geneva: World Health Organization, 2004), 33.

¹¹⁰*Ibid.*

¹¹¹World Health Organization, *Regional Intergovernmental Meetings on the Framework Convention on Tobacco Control: Fourth Session*. A/FCTC/INB4/4. 2003: 3.

¹¹²*Ibid.*

¹¹³*Ibid.*

exemplified by positive outlook from the Indian government toward COTPA and the FCTC.¹¹⁴

Despite strong and well-prepared positions covering advertising, financial assistance, liability and compensation, Indian negotiators, however, resisted when discussing tobacco taxation, trade restrictions, institutional capacity and oversight. These matters, for Indian negotiators, had to be mulled over and determined by national authorities. Health officials were negotiating these issues, particularly taxation, with other Indian ministries through COTPA at the same time.¹¹⁵ When negotiations moved to consider price harmonisation, that would have created a uniform price for tobacco products, Indian negotiators balked claiming that rules on pricing ‘could only be influenced by the state’ through taxation.¹¹⁶ Instead, the Indian delegation pushed for broad principles on tax policies to reduce tobacco consumption since specific edicts ‘would constitute an infringement of national sovereignty.’¹¹⁷ Doubts also existed on getting the necessary approvals from the Indian Ministry of Finance; these reservations made Indian negotiators oppose precise guidelines on taxation.¹¹⁸ When it came to product warnings on tobacco products, Indian negotiators proved hesitant to accept exact guidelines, instead insisting on broad principles on visual and written warnings that had to be ‘approved by national health authorities.’¹¹⁹

Some of these provisions, particularly taxation and warning signs on packages, were being debated under COTPA and Indian negotiators were not keen to undo progress there by accepting precise commitments in Geneva. Even as other developing countries pushed negotiations to institute clear warnings and the terrain it should cover on tobacco products, India’s position was circumspect.¹²⁰ COTPA, despite being drafted, was yet to be considered in parliament. For this task, Indian negotiators returned home from Geneva. Negotiators would soon witness how India’s positions at FCTC negotiations would affect COTPA that came up for parliamentary debate. To help pass COTPA and generate support for the FCTC, the MOHFW was supported by domestic tobacco control groups keen to strengthen existing tobacco controls and show

¹¹⁴Srinivas Tata.

¹¹⁵Ibid.

¹¹⁶WHO, *Summary Record: Second Session*, 115.

¹¹⁷Ibid.

¹¹⁸Former Joint Secretary in Ministry of Health and Family Welfare.

¹¹⁹WHO, *Summary Record: Fourth Session*, 32.

¹²⁰Thailand insisted on clear provision here, Ibid.

why India had to lead on international tobacco control.

Passing COTPA and Finalising FCTC

Interest groups working to enhance tobacco control in India influenced both COTPA and the FCTC. Historically, civil society activities on tobacco control date back to the efforts of physicians at the All India Institute of Medical Sciences (AIIMS) and its Health or Tobacco (HOT) group in the mid-1980s.¹²¹ The HOT group organised a national convention on tobacco control that led to the creation of two smaller groups - ACTION (Action against Tobacco: Indian Organizations Network) and NOTE (National Organisation for Tobacco Eradication) to shape and coordinate tobacco control advocacy. Both groups, however, proved ineffective in raising public awareness on tobacco use until the late 1990s due to a 'lack of adequate financial resources to organise, do solid empirical research on the tobacco problem and use that evidence to call for action.'¹²² Shoba John, Indian tobacco control activist, argued that 'though advocacy efforts started in the 1970s on tobacco control, we could not really string our efforts together until the late 1990s when the political moment shifted. We also struggled because our overwhelming focus was just Delhi; this gap made us realise that the rest of the country had to feature for a strong stand. Gradually, we started to focus on other parts of the country as well.'¹²³ Substantively, both ACTION and NOTE also lacked concrete evidence detailing tobacco use across India; they focused largely on linking the rise in cancers to extant smoking patterns.¹²⁴ Despite struggles, groups within the inchoate network worked to sustain pressure on the government vis-à-vis tobacco control.¹²⁵

Tobacco control groups also faced competing pressures from the domestic tobacco industry. The industry's chief lobbyist was the Tobacco Institute of India (TII) that represented the interests of a range of domestic tobacco manufacturers, farmers, exporters and related ancillaries.¹²⁶ The institute's core mission was to protect and enhance the global competitiveness of India's tobacco industry. The industry's political

¹²¹Reddy, *History of Tobacco in India*, 3.

¹²²P.C. Gupta.

¹²³Shoba John.

¹²⁴Sharad Vaidya, "Early Cancer Detection a Challenge," *The Times of India*, May 21 1977, 5.

¹²⁵Reddy, *History of Tobacco in India*, 4.

¹²⁶"History of TII," Tobacco Institute of India.

http://www.who.int/tobacco/framework/cop/events/tobacco_institute_india.pdf.

importance grew from its core structure. India has had a large integrated tobacco industry that involved ‘the cultivation of several varieties of tobacco, the manufacture of different tobacco products, including unprocessed and chewing tobacco, and an extensive distribution and retail system.’¹²⁷ Through the years, strong prices, sustained domestic consumption, good export demand for tobacco and low prices of other crops powered the growth of tobacco from a fledgling crop to a full-fledged industry. More importantly, for the Indian government, the industry provided substantial employment, especially rural, and generated considerable revenues; in 2001, the tobacco industry contributed nearly \$1.5 billion in taxes to the Indian government.¹²⁸ These considerations generally trumped the advocacy of tobacco control advocates that were themselves hamstrung by internal divisions, resource constraints and questionable evidence on tobacco use.

But this situation changed with more scientific research that laid bare the domestic effects of sustained tobacco use. As highlighted earlier, the MOHFW worked with various anti-tobacco groups and the WHO to upgrade their institutional understanding on tobacco use and control. These interactions gave way to the expert committee’s work on economics of tobacco use and other policy measures that the NDA government instituted to curb tobacco use. After decades, the interests of the Indian government and various tobacco control groups and organisations aligned and congruence meant that the tobacco industry’s interests were outweighed, at least momentarily, by public health considerations. The government’s resolve to bolster domestic controls and lead at FCTC negotiations was precipitated by focused deliberations that ruled on the trade-off between tobacco production and control, favouring the latter.

As COTPA neared passing and FCTC underway, the TII attempted to stall the government’s tobacco control push by lobbying relevant Indian MP’s on the need to protect livelihoods of citizens in the industry.¹²⁹ But their lobbying proved ineffective for two reasons. First, the key institutional interlocutor on both the FCTC and COTPA was the Ministry of Health and not the Ministry of Commerce (MOC) that had close

¹²⁷Ibid.

¹²⁸Ibid.

¹²⁹Shoba John. MPs from states like Andhra Pradesh and Karnataka voiced these reservations in parliamentary debates that took place on COTPA. See “Lok Sabha Debates: 11th Session,” Accessed April 30, 2015. <http://164.100.47.192/Loksabha/Debates/Result13.aspx?dbsl=5845>.

ties with tobacco industry and had worked to promote its interests. The MOC had no clear role at FCTC negotiations or COTPA. Politically, the pendulum shifted toward public health. And second, the TII's claims on potential economic losses were refuted by the health ministry that provided evidence on trade-offs between health and tobacco production and of the costs incurred from sustained tobacco use.¹³⁰ Health officials also reiterated their entreaties at FCTC negotiations for international financial assistance for domestic tobacco farmers and labourers.¹³¹ The tobacco industry's efforts to stymie progress were dented by prevailing government attitudes that tilted toward tobacco control.

These developments took place during FCTC negotiations where some Indian tobacco control groups were present, contributing to negotiations on various provisions. The WHO permitted select non-governmental organisations to participate at negotiations to allow for tobacco control groups in member states to have a say on the FCTC. Indian tobacco control groups were now simultaneously working to pass COTPA and nudge the government to sign the FCTC. To achieve both objectives, twelve Indian NGOs working on tobacco control formed a national coalition called the Advocacy Forum for Tobacco Control (AFTC) in 2001. The network was created as a 'coalition of organisations that work in the area of advocacy, awareness and research of tobacco control' in India.¹³² The AFTC had one core mission – to generate mass support for tobacco control policies through evidence-based research and public advocacy.¹³³ In contrast to its predecessors – ACTION and NOTE, the AFTC functioned as a loosely structured coalition designed to support each organisation in its tobacco control work.¹³⁴ The AFTC also worked to influence the government adopt stronger tobacco control measures when the government was more inclined to do so as evidenced by leadership on tobacco control from health officials, health ministers and Prime Minister Vajpayee.

To get COTPA passed, the AFTC settled on four strategies. First, sustain media advocacy through articles, press releases, editorials and interviews on the merits of the bill to enable quick enactment. Some of these materials highlighted on-going FCTC

¹³⁰Former Joint Secretary of Health, Government of India.

¹³¹*Ibid.*

¹³²Mira Aghi, "Genesis of Advocacy Forum for Tobacco Control," Lecture, HRIDAY India, New Delhi, n.d.

¹³³*Ibid.*

¹³⁴*Ibid.*

negotiations that placed considerable faith and expectations on India to domestically act on the issue.¹³⁵ The forum also executed an advocacy plan targeting Indian parliamentarians with informative brochures on the bill ‘clarifying the benefits of having such a law’ in India by referencing India’s positions at FCTC negotiations.¹³⁶ Through spirited public advocacy, NGOs effectively ‘became the voice of tobacco victims, whose lives were being compromised by tobacco prevalence.’¹³⁷

Second, AFTC maintained pressure on the government to enforce the Supreme Court’s 2001 decision that barred smoking in public places. Bhavani Thygarajan, former Indian health official, lauds AFTC for their judicial agency, ‘NGOs were useful to COTPA and concurrently FCTC through their legal advocacy. They repeatedly took tobacco companies to courts, challenging claims made by tobacco companies on tougher controls.’¹³⁸ NGOs were aware that resistance from tobacco companies could derail the on-going push given the industry’s political clout. This awareness made groups under the AFTC particularly sensitive of research on tobacco use, particularly advertising and marketing, public consumption of tobacco and rural consumption, and leverage them to pass the law.¹³⁹ At FCTC negotiations, Indian NGO representatives deployed latest scientific evidence on tobacco use to rebut industry arguments on key provisions including advertising and display warning signs.¹⁴⁰

Seven AFTC organisations also worked through the Framework Convention Alliance (FCA), a global network of anti-tobacco organisations formed to influence FCTC negotiations. The FCA worked to erect a strong framework convention by furnishing member state delegations with research and talking points on particular provisions as they were being negotiated.¹⁴¹ Independently, FCA organisations submitted requests to negotiators to ensure precedence was given to public health over

¹³⁵Shoba John.

¹³⁶Ibid.

¹³⁷Vineet Gill.

¹³⁸Bhavani Thygarajan.

¹³⁹Shoba John. In fact, as negotiations progressed, international tobacco companies like Phillip Morris received assistance from public relations firms on possible strategies to counter developments at Framework Convention negotiations. Firms implored Phillip Morris to stay engaged in the process ‘so as to co-opt and weaken the treaty. See Brandt, *The Cigarette Century*, 481.

¹⁴⁰Ibid.

¹⁴¹These organisations include ACT-India, Association for Consumers Action on Safety and Health (ACASH), Cancer Institute, Community Health Cell, HRIDAY (Health Related Information Dissemination Amongst Youth) and the School of Preventive Oncology. See Government of India, *Tobacco control in India*, 122.

other issues and to have the framework convention focus on all groups affected, not just those most vulnerable. This move was in response to the efforts of tobacco companies that were advised to push the treaty to focus on children while leaving adult choice protected.¹⁴² Indian negotiator Srinath Reddy asserted that the 'FCA was a key stakeholder during international negotiations in Geneva. They had a well-functioning base at INB meetings and used their time to educate delegates on important matters on tobacco control.¹⁴³ Shoba John, Indian FCA member, pointed out that the FCA functioned as a think-tank 'providing evidence on issues like advertising, smoking bans, tax measures, pictorial warnings and provisions that crossed the health-trade balance.¹⁴⁴ John added 'we also helped delegates prepare policy positions and papers before the INBs since a lot of negotiators from developing countries had no idea of how an international treaty worked. FCA policy papers were a key resource for international negotiators.¹⁴⁵

In addition, the FCA endorsed and advanced developing country positions by 'translating provisions, bringing evidence to particular amendments that India and other developing countries brought forward like the advertising ban that the G-77 under India's leadership pushed for, stronger warnings on tobacco products and tougher provisions to ban smoking at and around public places.'¹⁴⁶ The advantage that Indian and other developing country NGOs had was evidence on the prevalence of tobacco use and its hazards that gave them leverage when member states debated specific provisions on issues like advertising, warning signs, taxes, etc.¹⁴⁷ However, the FCA did not see eye to eye on all developing country interests. They differed on the matter of international financial assistance; while India and other developing countries preferred an independent global fund, the FCA demurred, calling for regular financial tranches from the WHO instead of an independent body to provide financial assistance to developing countries.¹⁴⁸ Nonetheless, NGOs through the FCA had an impact on the international negotiating process and Indian groups, in particular, split their time working to get FCTC ratified and COTPA passed.

¹⁴²Brandt, *The Cigarette Century*, 166.

¹⁴³K. Srinath Reddy.

¹⁴⁴Shoba John.

¹⁴⁵*Ibid.*

¹⁴⁶*Ibid.*

¹⁴⁷*Ibid.*

¹⁴⁸*Ibid.*

Third, the AFTC relied on physicians to highlight the dangers accompanying tobacco use.¹⁴⁹ Leading public health figures publicly endorsed the legislation; they also highlighted the expected public health gains from regulating tobacco use. Srinath Reddy, one of the leading exponents of this effort, publicly declared during COTPA discussions ‘it is in the nation’s interest that the bill is passed at the earliest in its current form. It will be a major advance for the public health efforts in India.’¹⁵⁰ Reddy, also India’s FCTC negotiator, underscored the parallel importance of FCTC negotiations ‘that had many similar provisions to the India’s tobacco control bill.’¹⁵¹ Exhorting policymakers, Reddy argued that COTPA’s passage would ‘establish India as the pioneer nation to conform to WHO standards regarding tobacco.’¹⁵³

Fourth, the AFTC worked alongside the MOHFW during parliamentary debates to pass COTPA by ‘providing evidence and talking points when required for Health Minister Sushma Swaraj as she stood up to defend the bill.’¹⁵⁴ In terms of influence, several AFTC groups had direct access to health officials and policymakers working to pass COTPA. Shoba John recalls, ‘just as the vote for COTPA was nearing, we had a clear and targeted plan in place regarding what tobacco control measures we wanted going ahead that included list of targets to be achieved, how the media campaign should be devised, how to bring more scientific evidence on tobacco related effects to bear. Each NGO had a particular task and they pitched in to support these efforts.’¹⁵⁵ This influence also extended to considerations on the FCTC that strove to establish clear rules on tobacco product regulation and distribution to help member states institute their own tobacco policies. Before and through negotiations, India’s FCTC negotiators worked closely with specific tobacco control groups and individuals like Srinath Reddy who also served as FCTC negotiator himself. The revolving door between health officials and public health activists on tobacco control, domestic and international, was clearly open.

¹⁴⁹Mira Aghi, “Genesis of Advocacy Forum for Tobacco Control.”

¹⁵⁰“HRIDAY advocates urge the government to pass COTPA,” New Delhi, Health Related Information Dissemination Amongst the Youth, 2003.

¹⁵¹*Ibid.*

¹⁵²*Ibid.*

¹⁵³*Ibid.*

¹⁵⁴Shoba John.

¹⁵⁵*Ibid.*

Climax – COTPA and FCTC

FCTC negotiations and India's stances there influenced COTPA's passage and vice-versa. The NDA government approved recommendations made by the parliamentary standing committee on COTPA on February 19, 2003. The bill was then considered in the Rajya Sabha (upper house) and passed on April 9. The Lok Sabha (lower house) considered the bill on April 30. Despite dissent, sufficient multi-partisan support existed to pass the legislation.¹⁵⁶ In fact, the impetus from FCTC redounded toward India; FCTC's imprimatur mattered as it projected the tobacco scourge as a global problem that obliged WHO member states to act. Varkala Radhakrishnan, Indian Member of Parliament from Kerala, asserted that India was a 'member of the WHO' and as such was required to 'champion the cause that humanity should be free from cancer, cardiovascular diseases, and even oral cancer. India champions a human cause.'¹⁵⁷ Several Indian parliamentarians pointed to the international implications of not passing COTPA since the WHO was expending considerable effort moving the multilateral dialogue on tobacco control through the FCTC.¹⁵⁸

That the Indian government had been pursuing COTPA made FCTC ratification less arduous. Srinivas Tata, one of three Indian FCTC negotiators, argued that domestic currents decisively shaped India's positions on FCTC, 'India's FCTC stance was determined by domestic tobacco control. Once you had a strong domestic foundation, FCTC was relatively easy to negotiate and ratify for India. It helps if the provisions of the convention are similar to domestic law. The providential part was that both processes were happening at the same time. Policy momentum at home made international negotiations manageable for us.'¹⁵⁹ The FCTC also influenced the politics and passage of COTPA. As Indian health officials negotiated the FCTC, their resolve to pass COTPA increased, drawing courage and resolve from international negotiations.

¹⁵⁶Resistance surfaced from legislators representing tobacco interests. Several MPs expressed objections on the impact COTPA would have on tobacco workers in their constituency. Former Prime Minister Deve Gowda, MP from Karnataka, feared the bill would 'destroy the very industry itself and cast doubts on whether the bill would be implementable, specifically provisions regulating point of sale. See "Lok Sabha Debates: 11th Session," Accessed April 30, 2015.

<http://164.100.47.192/Loksabha/Debates/Result13.aspx?dbsl=5845>.

¹⁵⁷Ibid.

¹⁵⁸Ibid.

¹⁵⁹Srinivas Tata.

Shoba John adds that ‘FCTC negotiations helped stimulate COTPA and domestic discussions on tobacco control in the Indian health ministry. Indian negotiators learned a lot from the international process and brought those experiences and knowledge back home to bear. The international process gave Indian negotiators an excuse to explain to other ministries of the need to upgrade domestic legislation.’¹⁶⁰ Both processes influenced each other to strengthen tobacco control in India and abroad.

On May 18 2003, COTPA became law.¹⁶¹ The law proved to be a significant upgrade to its predecessor, on paper. COTPA expanded the remit of tobacco products to be regulated, beyond just cigarettes.¹⁶² New rules were added to regulate tobacco commerce, direct and indirect advertising of tobacco products, and sale of tobacco products to minors and vulnerable segments and public consumption. The law also mandated tobacco manufacturers to follow a clear palette when designing warning signs on their tobacco products.¹⁶³

On May 21 2003, 192 member states of the WHO adopted the FCTC.¹⁶⁴ India ratified the convention on February 5, 2004 becoming the eighth WHO member state to do so.¹⁶⁵ The FCTC established a framework for signatories to follow when crafting policies to reduce tobacco use; WHO member states, that do ratify, are expected to reduce the demand and supply of tobacco products through various policy measures.

As designed, the FCTC provides ample space for WHO member states to craft their own tobacco control policies. For India, this objective was met through COTPA’s passing.¹⁶⁶ On three key issues - regulation of tobacco product disclosures, packaging and advertising, COTPA comports with the FCTC. On regulation, COTPA like the FCTC requires ingredients to be clearly indicated on all tobacco products.¹⁶⁷ On

¹⁶⁰Shoba John.

¹⁶¹Government of India, “*The Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act* (New Delhi: Ministry of Law, 2003)

¹⁶²*Ibid.*

¹⁶³Government of India, *The Cigarettes and Other Tobacco Products Act*, 8.

¹⁶⁴World Health Organization, *WHO Framework Convention on Tobacco Control*, (Geneva: World Health Organization, 2004)

¹⁶⁵World Health Organization, *Signatories to the FCTC*. http://www.who.int/fctc/signatories_parties/en/

¹⁶⁶For a comparative overview of FCTC and COTPA, See Public Health Foundation of India, *A Comparative Analysis of WHO FCTC and the Indian Laws Regulating Tobacco* (New Delhi: PHFI, 2008), 21-24.

¹⁶⁷*Ibid.*, 21.

packaging, COTPA requires manufacturers to adhere to a strict advertising palette; this expectation coheres with FCTC provision requiring tobacco products to be properly described at sale.¹⁶⁸ The FCTC also recommends ‘30-50 percent or more of the principal display area of packages’ carry legible health warnings; COTPA expects manufacturers to print health warnings that cover 40 percent of the display area of the product.¹⁶⁹ Finally, on tobacco advertising, the FCTC encourages all signatories to implement a comprehensive ban with exemptions allowed for signatories that object for constitutional reasons.¹⁷⁰ COTPA imposes a total ban on direct and indirect advertising of cigarettes and other tobacco products; though point of sale advertising is permitted, it needs to be controlled to fully comply with the FCTC.¹⁷¹

Conclusion

India led to negotiate and ratify the Framework Convention on Tobacco control to promote tough controls around tobacco consumption and production and lessen the escalating number of morbidities and premature deaths caused by domestic tobacco use. The Ministry of Health and Family Welfare (MoHFW) concurred with the World Health Organization’s intent to negotiate a framework convention that would impose sufficient controls on how the tobacco industry operated worldwide. Having robustly grasped the problems caused by tobacco use at home that were largely driven by excess tobacco and weak regulations, Indian health officials strove to draft strong FCTC provisions on tobacco product regulation, advertising and prevention while striving to secure financial assistance for citizens dislocated by tougher rules. The approach taken by Indian negotiators was politically backed by Prime Minister Vajpayee who was keen to enhance domestic and international controls around tobacco and protect Indian citizens working in the tobacco industry. The government’s tobacco control approach was supported by a strong coalition of tobacco control groups that endorsed the tightening of rules around tobacco production, distribution and consumption and worked with health ministry to ensure these efforts come to fruition. Before negotiations, tobacco control groups helped the health ministry understand how deep

¹⁶⁸Ibid, 22.

¹⁶⁹Ibid.

¹⁷⁰Rebekah H. Nagler and Kasisomayajula Viswanath, “Implementation and Research Priorities for FCTC Articles 13 and 16,” *Nicotine & Tobacco Research* (2013): 832.

¹⁷¹PHFI, *A Comparative Analysis of WHO FCTC and Indian laws*, 22.

and widespread the problem of tobacco use was and the trade-off between adopting tough measures and resisting given economic considerations. Once negotiations for the FCTC commenced, these groups mobilised under the AFTC to forge a strong approach vis-à-vis tobacco control at both arenas pushing the government to pass the domestic tobacco legislation and ratify the Framework Convention on Tobacco Control.

Chapter Four - India and the Framework Convention on Climate Change

Introduction

This chapter covers India's ratification of the United Nations Framework Convention on Climate Change (UNFCCC), the first treaty signed by countries worldwide to mitigate greenhouse gas emissions. The chapter first provides a brief historical background breaking down developments leading to FCCC negotiations before describing India's behaviour. Then I ask why India's leadership on climate change and FCCC ratification was puzzling. Next, the chapter provides an analytical narrative describing how interests, institutions and interest groups interacted to determine India's approach at FCCC negotiations and subsequent ratification. Briefly, the Ministry of Environment and Forests found themselves beleaguered facing a litany of environmental problems without adequate funding or enforcement authority to address the growing environmental crisis in India. As the global warming problem emerged on the international landscape, India found itself shorthanded given incumbent knowledge gaps on the issue within the Ministry of Environment. It was unclear at first what India's interests were. Nonetheless, Indian diplomats understood the political importance of the issue and how India needed to respond. Working with domestic environmental research organisations, the Indian delegation, led by the Indian Ministry of External Affairs, adopted a defensive political approach at negotiations that exempted India and other developing countries from climate mitigation commitments. India's strategy and positions hinged on securing necessary sufficient financial and technological assistance from developed countries for mitigation. India ratified the treaty once these key provisions were added to the framework convention.

Background

By the 1980s, burgeoning environmental awareness generated a widespread belief that the world environment was changing. Problems like the atmospheric build-up of greenhouse gases, hole in the ozone layer and the loss of biodiversity were understood to be emerging from human activities like deforestation, increasing vehicular use and

the release of chlorofluorocarbons.¹ The most pressing problem to scientists working on such trends was global warming also known as the greenhouse gas problem.² Scientists had, by then, established that atmospheric concentrations of carbon dioxide had risen through the 1970s and 80s. A 1979 report from the U.S National Academy of Sciences concluded that if such carbon dioxide levels persisted, 'there is no reason to doubt that climate change will result and no reason to believe that these changes will be negligible.'³ The climate, they argued, was changing.

Although global warming was attributed to human activities it was unclear, at first, which countries were responsible for the problem or if all countries were. This question led to more targeted research to monitor and ascribe atmospheric carbon levels over several years.⁴ Workshops were then held in Villach, Austria in 1985 and Bellagio, Italy in 1987 to examine the science of climate change, consider costs of action and inaction and debate possible mitigation scenarios.⁵ Also discussed at both workshops were contributions of various countries to global warming. Through this exercise, scientists acknowledged the acute position of developing countries, in particular, to confront and address the growing problem given incumbent inadequacies, both technical and financial.⁶ Although both workshops did not lay blame on industrialised countries, it was regarded that these countries could, at the very least, confront and minimise activities inducing global warming.⁷ This question of contributions or *responsibilities* vis-à-vis global warming and greenhouse gas emissions would affect how the issue would come to be defined and tackled.

¹Daniel Bodansky, "The History of the Global Climate Change Regime," In *International relations and global climate change* (eds.) Urs Luterbacher and Detlef Sprinz, (Boston, MIT Press, 2001): 27.

²Precise measurements at American laboratories enabled scientists to establish, in the 1960s, that atmospheric concentrations of CO₂ were increasing. In the 1970s and 1980s, exponential gains in computing power allowed scientists to develop much more sophisticated computer models led to confident global warming predictions. See Bodansky, *The History of the Global Climate Change Regime*, 29.

³National Academy of Sciences, *Carbon Dioxide and Climate: A Scientific Assessment* (Washington: National Research Council, 1979)

⁴WMO, "Historical Background and Overall Programme," <http://www.wmo.int/pages/prog/wcp/wcp.html>.

⁵Both workshops agreed developed countries had the financial and technical resources to implement policy changes. But developing countries, on the other hand, would need financial assistance to tackle the problem. The workshops concluded that 'concerted efforts' must be taken to mitigate increasing carbon emissions. See Mukund Govind Rajan, *Global environmental politics: India and the North-South politics of global environmental issues*, (New Delhi: Oxford University Press, 1997), 104.

⁶World Meteorological Organization, *Report of the International Conference on the Assessment of the Role of Carbon dioxide and Other Greenhouse Gases in Climate Variations and Associated Impacts* (Geneva: WMO, 1986)

⁷Ibid.

The notion that developed countries had greater burdens given their contributions to global warming acquired salience at the 1988 World Conference on the Changing Atmosphere.⁸ Consensus emerged that global warming was a serious problem that required more research and monitoring and, if possible, an international convention on the protection of the atmosphere. This judgment precipitated the creation of the Intergovernmental Panel on Climate Change (IPCC) in 1988 established to ‘assess the state of existing knowledge about the climate system and climate change.’⁹ Global warming and climate change were now used interchangeably to mark the same phenomenon. The IPCC’s first assessment report, released in 1990, upheld existing scientific evidence on global warming, issuing stern warnings to the global public and policymakers of possible societal impacts from a changing climate.¹⁰

The IPCC’s work was endorsed by the U.N. General Assembly that stressed the need for ‘global’ collective action without unpacking if this statement meant symmetric contributions from all countries. Developing countries, however, nursed doubts on global collective action that could potentially hinder their economic development if asked to reduce global warming emissions.¹¹ At the 9th Non-Aligned Summit in September 1989, Indian Prime Minister Rajiv Gandhi voiced these reservations, questioning the efficacy of developing country participation on global environmental issues given capacity concerns that would leave no them no choice but defy global warming commitments. Instead, Gandhi suggested that existing capacity constraints be addressed through a Planet Protection Fund (PPF) funded through fixed contributions to assist developing countries acquire technologies to advance development and protect the environment.¹² The politics around carbon emissions and commitments had not fully crystallised but developing countries, India in particular, appeared sensitive to the linkages between the environment and development.¹³

⁸Bodansky, *The History of the Global Climate Change Regime*, 31.

⁹Ibid.

¹⁰John Theodore Houghton and Bruce A. Callander, *Climate Change 1992* (Cambridge, UK: Cambridge University Press, 1992), 65.

¹¹Rajan, *Global environmental politics*, 103.

¹²C.S. Mehta, *Environmental Protection and the Law* (New Delhi: APH Publishing, 1991)

¹³In fact, it was Prime Minister Indira Gandhi who first expanded on the relationship between development and environment at the 1972 U.N. Conference on the Human Environment in 1972. See, Ved Nanda and W.R. Ris Jr, “Public Trust Doctrine: A Viable Approach to International Environmental Protection,” *The Ecology LQ*, 5, (1975): 291.

On the other hand, developed countries supported a global climate conference to discuss how countries can begin to address climate change; importantly, G-7 countries felt that *all* countries regardless of development constraints should contribute.¹⁴ Diplomatically, however, this desire was being chipped away by declarations sympathetic to the plight of developing countries. The Noordwijk Conference on Atmospheric Pollution and Climate Change in November 1989 declared climate change to be ‘common concern for mankind’ and that developed countries had ‘specific responsibilities’ given incumbent financial and technical capabilities and past contributions to greenhouse gas emissions.¹⁵ The latter statement was crucial for it bifurcated, for the first time, countries confronting climate change and global warming based on levels of economic development. Developing countries present accepted the declaration even though ‘responsibilities’ were left vague but they did internalise one key message from Noordwijk - that of ‘specific responsibilities’ which they understood developed countries had vis-à-vis global warming.¹⁶

This message was carried over to the U.N. General Assembly. In December 1989, U.N. Resolution 44/228 was passed ‘recognising the global character of environmental problems, including climate change, depletion of the ozone layer, trans boundary air and water pollution.’¹⁷ The resolution affirmed that the ‘responsibility for containing, reducing, and eliminating global environmental damage must be borne by the countries causing such damage, must be in relation to the damage caused and must be in accordance with their respective capabilities and responsibilities.’¹⁸ Finally, the resolution established the United Nations Conference on Environment and Development (UNCED) to enable UN member states convene and debate global environmental issues.¹⁹

Before UNCED, the IPCC’s first commissioned report was released in May 1990. Troublingly, the report laid bare the effects of sustained global warming to the

¹⁴G-7. “G 7 Communique: Economic Declaration,” Accessed December 12, 2015, <http://www.g8.utoronto.ca/summit/1989paris/communique/index.html#environment>.

¹⁵“Noordwijk Ministerial Conference”, Accessed December 11, 2015. <http://unfccc.int/resource/ccsites/senegal/fact/fs218.htm>”

¹⁶Rajan, *Global environmental politics*, 106.

¹⁷U.N. General Assembly, “U.N. Resolution 44/228,” Accessed December 16, 2015. <http://www.un.org/documents/ga/res/44/ares44-228.htm>

¹⁸Rajan, *Global environmental politics*, 104.

¹⁹Ibid.

planet; the report also estimated that average global temperatures would rise by about 2°C by 2030 and 4°C by 2090 that would increase sea levels 18 cm by 2030 and 58 cm by 2090.²⁰ The implications, the IPCC warned, were frightful especially for countries near coastal areas.²¹ The IPCC also recommended *all* member states institute national plans to reduce greenhouse gas emissions and negotiate a framework convention to establish international rules around global warming.²² But the report drew scepticism from several developing countries that felt the panel was speaking on behalf of developed countries, not research alone.²³ Unintentionally, the report validated developing country suspicions on climate change. The question of *responsibility* in terms of tackling climate change emerged as the flashpoint particularly in the context of climate change negotiations for a framework convention.

Developing countries laboured to transfer negotiations for a convention under the U.N. given tensions around the understanding of climate change and how it should be addressed. Their efforts proved successful when the U.N. General Assembly established the Intergovernmental Negotiating Committee (INC) for a Framework Convention on Climate Change (hereafter FCCC) to negotiate a climate change convention containing ‘appropriate commitments’ in time for ratification at UNCED in June 1992.²⁴ Negotiations were set to begin under the U.N.’s remit.

India received news of negotiations with a healthy dose of scepticism. Climate change was a relatively new diplomatic issue. Till then, only a few intergovernmental meetings had been held on climate change. Scientific knowledge of climate change was poor in India with no systematic work done on whether the climate was changing and how. Environmental officials were focused on minimising pollution and its effects on the environment. Climate change and global warming had clear economic implications which heightened its importance for developing countries. Even as controversies surrounded the national origins of greenhouse gas emissions, it was undeniable from the outset that industrialisation and growth contributed to their prevalence. Suffice to say,

²⁰Houghton and Callander, *Climate change 1992*, 105.

²¹*Ibid.*

²²*Ibid.*

²³Bodansky, *The History of the Global Climate Change Regime*, 30.

²⁴U.N. General Assembly, “U.N Resolution 45/212. *Protection of global climate for present and future generations of mankind*,” Accessed December 19, 2015.
<http://www.un.org/documents/ga/res/45/a45r212.htm>.

the Indian government was caught off-guard when climate change negotiations were announced. Nonetheless, the Indian delegation, notwithstanding deficits, negotiated to secure a framework convention that reflected and protected the interests of developing countries. Through conferences at Noordwijk and SWCC, Indian diplomats grasped the diplomatic trade-offs of climate change and its impact on developing countries ill-equipped to reduce carbon emissions. Indian negotiators doubled down on the linkage between development and greenhouse gas emissions against the wishes of developed countries that were split over how much responsibility to accept. The end result was a framework convention that did little to confront climate change or its causes. But India was pleased with the outcome and of a framework convention that did not hamper its growth. India signed and ratified the FCCC soon after negotiations ended.

Puzzle – India’s FCCC Behaviour

India’s FCCC approach and behaviour at negotiations raises one key puzzle. Why did India adopt and sustain a strong diplomatic position that stressed *differentiated responsibilities* before countries decided on the type and nature of commitments they would accept? Indian negotiators were instrumental in shaping principles that enabled countries analyse and determine how climate change would be addressed. Equity featured heavily in India’s position. Mukund Govind Rajan claims that India’s position at climate negotiations was a product of the politics between industrialised and developing countries that compelled Indian negotiators to assume a defensive tack and agenda. Thus the politics of the global south and the need to protect ‘sovereign’ interests pushed Indian negotiators who then acted in consonance with other developing countries to protect mutual interests.²⁵ Susanne Jakobsen attributes India’s position to domestic non-governmental organisations who worked behind the scenes to impress the importance of India’s development and the implications of accepting emissions related commitments that could harm India’s growth.²⁶ What these two explanations fail to account for is an understanding of what India’s interests were on climate change as negotiations neared and how they were formed? Little thought has been given by scholars to understand India’s core positions at negotiations by unpacking the

²⁵Rajan, *Global environmental politics*, 135.

²⁶Susanne Jakobsen, *India's position on climate change from Rio to Kyoto: a policy analysis* (Copenhagen: Danish Institute for International Studies, 1998), 15-18.

institutional awareness and positions on climate change and how the issue affected India. Undertaking this exercise will help us appreciate how key institutions like the Ministry of External Affairs and Ministry of Environment and Forests and domestic interest groups like The Energy and Resources Institute (TERI) and Centre for Science and Environment (CSE) perceived climate change as an issue and how those views shaped Indian interests and behaviour at negotiations.

Narrative – India and the Framework Convention on Climate Change

Managing a Deteriorating Environment – Institutional Inadequacies

From the early 1970s, the environment was in rapid decline in India. A new report on the state of the Indian environment in 1982 claimed that ‘the misery of the human condition in our country is mirrored by the sweeping degradation of its environment.’²⁷ The trends flagged by the report were alarming - a quarter of agricultural lands under irrigation were expected to be out of cultivation due to water logging; seventy percent of available water resources were supposedly polluted; atmospheric pollution was severe especially in urban areas; deforestation was depriving poor citizens of energy given their reliance on firewood; wildlife and India’s biodiversity were imperilled by illicit trade.²⁸ Inadequate environmental enforcement only made the problem worse. Nearly eighty percent of industrial establishments in India in the 1980s posed a threat to the environment for failing to meet minimum industrial safety standards; in cases where provisions existed, like the 1974 Water Act and 1981 Air Act, enforcement gaps abounded.²⁹

The underlying problem was institutional. Environmental agencies were overwhelmed by the sheer range of environmental problems. From the mid-1970s, some institutions were created and others restructured to address these gaps. Before 1972, issues like sewage, water, sanitation and air were governed by different ministries without much coordination between them or between national and state ministries

²⁷Anil Agarwal and Sunita Narain, *The state of India's environment 1982: A citizen's report* (New Delhi: Centre for Science and Environment, 1982)

²⁸Ibid.

²⁹S.L. Kayastha, “Environmental Policies in India,” in *Environmental Policies: An International Review*, ed. CC. Park, (1986): 252.

managing the environment.³⁰ In February 1972, Prime Minister Indira Gandhi established the National Committee on Environmental Planning and Coordination (NCEPC) to function as the coordinating unit on environmental policy.³¹ Until 1980, the NCEPC worked with other ministries to mainstream environmental concerns into policy planning; it essentially had an advisory, not executive, role that dented its ability to address environmental problems.³² In November 1980, a stand-alone Department of Environment (DOE) was established with responsibilities over environmental policy planning, environmental guidelines for various sectors, environmental appraisals, environmental research and education and international cooperation.³³ To raise environmental awareness among the public, Prime Minister Indira Gandhi established the National Committee on Environmental Planning (NCEP) in 1981 to prepare annual state of the environment reports, arrange public hearings on environmental issues and establish a national information system on environmental welfare.³⁴

There was a clear intent to shore up the state's environmental machinery to address preponderant institutional gaps. But the government's plan had limited utility since remedies failed to improve environmental enforcement even as the number of environmental laws increased. Both the 1974 Water Act and 1981 Air Act – enacted to prevent and control water and air pollution were ineffective due to enforcement difficulties, in particular the failure of agencies to sanction parties that violated rules.³⁵ Both laws also did not specify how state boards that managed air and water pollution levels would be funded.³⁶ As a result, water pollution did not budge - close to 70 percent of available water was polluted in 1985.³⁷ By the early 1990s, India was the

³⁰Onkar P. Dwivedi and Renu Khator, "India's environmental policy, programs and politics," in *Environmental policies in the third world: A comparative analysis*, eds. O.P Dwivedi and D. Vajpeyi, (Westport, CT: Greenwood Press, 1995): 50.

³¹Ibid.

³²Onkar P. Dwivedi and Brij Kishore, "Protecting the environment from pollution: A review of India's legal and institutional mechanisms," *Asian Survey* 22, 9 (1982): 898.

³³Ibid.

³⁴Ibid.

³⁵Dwivedi and Vajpeyi, *Environmental policies in the third world*, 56. Also see Government of India, "The Water Act, 1974," <http://www.moef.nic.in/content/no6-1974-2331974-water-prevention-and-control-pollution-act-1974-amended-1988-0>; Government of India "The Air (Prevention and Control) Act, 1981," <http://www.moef.nic.in/legis/air/air1.html>

³⁶To remedy this problem, the central government passed the Water Cess Act in 1978 to enable water boards meet incumbent expenses through several taxes and rebates for industries that comply. See Ramakrishna, *Emergence of Environmental Law in the Developing Countries: A Case Study of India*, 917.

³⁷Ibid.

fifth largest polluter to the world's air with motor vehicles being a leading cause.³⁸ Adding to these problems, a gas leak from Union Carbide's Bhopal plant triggered a major industrial disaster in 1984 that garnered international attention.³⁹ The disaster led to the passing of the Environmental Protection Act in 1985 that established the Ministry of Environment and Forests (hereafter MoEF) to institute, manage and enforce environmental policies.⁴⁰

Despite the restructuring, certain institutional gaps remained. In 1987, the MoEF in an annual report stated 'the modalities of protection have been to enforce environmental regulations through criminal courts of law but long delays in the courts and inertia of the prosecuting agencies have led to polluters escaping the full penalties and exposing the people and the environment to the adverse effects of pollution.'⁴¹ Mostafa Tolba, United Nations Environment Programme (UNEP) Director, attributed this laxity to the desire of most developing countries to "industrialise at any cost."⁴² Most developing countries, Tolba argued, were, at best, complacent and, at worst, hostile toward spending money for environmental protection.⁴³ Resources, no doubt, were a concern. The environment had been chronically underfunded in the Indian budget. Records show spending allocations for environmental programs were somewhere in the range of 0.04 percent of the Indian government's budget in 1982.⁴⁴

³⁸The number of motor vehicles has increased from 0.3 million in 1951 to 37.2 million in 1997. Moreover, the number of two-wheeled vehicles increased from 9% in 1951 to 69% in 1997. As a result, the total estimated pollution from the transport sector increased from 0.15 million tonnes in 1947 to 10.3 million tonnes in 1997. See R.K. Pachauri and P.V. Sridharan, *Looking Back to Think Ahead: growth with resource enhancement of environment and nature* (New Delhi: Tata Energy Research Institute, 1998), 48.

³⁹On Dec. 3, 1984, the release of methyl isocyanate (MIC) gas drifted into the town surrounding Union Carbide's pesticide plant in Bhopal. Before the gas was clear, many were dead or seriously impaired. Official Indian government statistics indicate that more than 4000 residents died with another 11,000 impaired for life. See Sheila Jasanoff, *Learning from Disaster: Risk Management after Bhopal* (Philadelphia: University of Pennsylvania Press, 1994), 1-3.

⁴⁰Edward Broughton, "Environmental health: a global access science source," *Environmental health: a global access science source* 4, 6 (2005): 6.

⁴¹Government of India, *Ministry of Environment and Forests: Annual Report - 1989-90*. (New Delhi: LK Press, 1990), 77.

⁴²"Environmental Concerns Grown in the Third World," *The Toledo Blade*, December 9, 1984.

⁴³*Ibid.*

⁴⁴K. D. Saksena, *Environmental Planning Policies and Programmes in India* (New Delhi: Shipra Publications, 1993), 74.

Industrialising at the Environment's Expense

Enforcement and funding were both constraints but more problematic was the Indian government's inability to see how economic growth was evolving and if an unfettered focus on industrialisation and growth had environmental implications. No systematic study was conducted on the cumulative environmental impact of industries located across the country.⁴⁵ Much of the focus from new environmental legislations was on mitigating rising environmental detritus without addressing the source – industrialisation. Policy incoherence reigned.

From the early 1980s, the government instituted several industrial and market-oriented reforms with an emphasis on manufacturing, both organised and unorganised, and small-scale enterprises. Generally, the period from 1981-1991 is understood to an era of deregulation, fiscal expansion and growth in India; this decade experienced an average aggregate growth of nearly 6 percent.⁴⁶ Industrial licensing requirements were relaxed for big businesses to enable firms make quick decisions on output.⁴⁷ Businesses were permitted to diversify in related areas without a separate license and exceed production capacities without sanction.⁴⁸ All these policies were adopted to enable firms expand output with additional flexibility. Public sector banks were pushed to provide convertible debt financing to firms while facilitating the conditions for private capital investments in manufacturing.⁴⁹

New Delhi also renewed the focus on small-scale textile and garment producers. Capital and labour constraints were eased to revive production. As a result, the share of garments and textiles in India's total trade increased from 0.15 percent in 1960 to 11.5 percent in 1995 and India's share of world apparel exports reached 2.3% in 1992.⁵⁰ The small-scale manufacturing industry, including food, paper, rubber, leather and chemical

⁴⁵“Rise in Pollution,” *The Times of India*, December 9, 1985, 8.

⁴⁶To be sure, there were fluctuations from year to year in that decade but on average the economy grew at 6 percent. See K.L. Krishna and Uma Kapila, *Readings in Indian Agriculture and Industry* (New Delhi: Academic Foundation, 2009)

⁴⁷T.N. Srinivasan and Suresh D. Tendulkar, *Reintegrating India with the world economy* (Washington, D.C: Peterson Institute Press, 2003), 23.

⁴⁸*Ibid.*

⁴⁹*Ibid.*

⁵⁰The government's focus was on decentralised textile companies away from big textile mills. See World Bank. *India Cotton and Textile Industries: Reforming to Compete* (Washington, DC: World Bank, 1999), 170.

companies, grew 19 percent from 1981-1991.⁵¹ But this revival was accompanied by rising pollution since such small-scale industries experience higher rates of pollution intensity; firms in these industries generally emit more given lax pollution prevention controls.⁵² Enforcement was difficult since these enterprises lacked data on their own operations in terms of pollution rates which also made managers disinclined to worry of the environmental effects of production.⁵³ Fearing loss of output and employment, Indian regulators proved reluctant to enforce laws that perpetuated the discharge of pollutants in environments where most industries were located.⁵⁴ By standing aside, the Indian government exacerbated the seemingly apparent and growing environmental problem.

Comprehending Climate Change

The MoEF confronted a raft of environmental concerns without sufficient resources, either financial or institutional, to address them. These legacies impinged on the ministry's capacity to grapple with emergent environment concerns like climate change. As climate change landed on the international landscape, Indian environmental officials were ill prepared to grasp its intricacies or engage with it deftly. This deficit was, in a way, inevitable since scientific research on climate change and global warming was largely conducted in industrialised countries until 1990. As R.K. Pachauri, former IPCC chair states, 'at the start of the work of the IPCC, developing countries had hardly done any research on either the scientific or policy aspects of the problem.'⁵⁵ But even once the IPCC was established, Indian interactions with the body was barren with little effort given to robustly engage the scientific network on global warming issues.

All IPCC matters, in fact, fell under the purview of a single MoEF official who also covered other international environmental issues like the Ozone Protocol,

⁵¹U. Sankar, "Policy Options for Prevention and Control of Industrialization in India," in *Industrialization in a Reforming Economy: Essays for KL Krishna*. ed. Suresh D. Tendulkar (New Delhi: Academic Foundation, 2006), 547.

⁵²Ibid.

⁵³Ibid.

⁵⁴Ibid.

⁵⁵Tata Energy Research Institute, *Proceedings of the International Conference on Global Warming and Climate Change: Perspectives from Developing Countries* (Tata Energy Research Institute: New Delhi, 1989)

desertification, biodiversity and UNCED-related issues from 1989.⁵⁶ There was no clear Indian interface or channel to connect national scientific inputs from Indian climate scientists with international scientific assessments on global warming.⁵⁷ In fact, only two Indian scientists were involved in the IPCC's first assessment Report (AR) as lead authors and none as coordinating lead authors that are responsible for producing climate change research that could be synthesised with other country contributions.⁵⁸ In July 1989, the MoEF constituted an Expert Advisory Committee on Global Environmental Issues to 'advise the government on all aspects related to global warming.'⁵⁹ When convened the following year to review climate change in India, the committee reported 'no database exists in the country nor is there any present programme for systematic study and collection of data.'⁶⁰ In other words, there was no scientific base on climate change or global warming in India that the Indian government could use to determine how the country was affected by the phenomena or even if it was.

The MoEF's record on environmental diplomacy was also chequered.⁶¹ The one official covering international environmental issues lacked access to the latest scientific research on the greenhouse gas problem being done in the United States and Europe.⁶² Moreover, there is no official record of MoEF officials attending meetings and workshops on climate change that established the policy status quo on climate change – that countries had varied responsibilities on climate change. Instead, MoEF officials relied largely on informal personal interactions with scientists to grasp the intricacies of climate change.⁶³ One external consultant claimed 'interviewees outside the central bureaucracy expressed clear dissatisfaction with MoEF preparations, which they perceived as being rather disorganised and arbitrary. The tendency for the MoEF is to call in various experts and environmental activists for information only in the last week

⁵⁶Milind Kandlikar and Ambuj Sagar, *Climate Change Science and Policy: Lessons from India* (Cambridge, MA: Belfer Center, 1997)

⁵⁷Ambuj Sagar and Milind Kandlikar, "Knowledge, rhetoric and power: international politics of climate change," *Economic and Political Weekly*, Vol. 32, 49 (1997): 3142.

⁵⁸R. Ramachandran, "India in the Intergovernmental Panel on Climate Change." In *Handbook of climate change and India: development, politics and governance*, ed. Navroz Dubash, (New Delhi: Routledge, 2012), 68.

⁵⁹Rajan, *Global Environmental Politics*, 101.

⁶⁰*Ibid*, 101-102.

⁶¹Jakobsen, *India's Position on Climate Change from Rio to Kyoto: A Policy Analysis*, 12.

⁶²Mukul Sanwal, Former Indian Climate Change Negotiator, Interview by author, April 28, 2015. However, Indian environmental officials had a good understanding of pollution control which other developing countries did not have. As negotiations commenced, only India, amongst developing countries, had a department that tracked pollution.

⁶³*Ibid*.

before an international meeting.’⁶⁴ As a result, the MoEF did not really ‘get a true picture of the range of uncertainty’ on climate change before FCCC negotiations.⁶⁵

Financial difficulties also throttled Indian climate science.⁶⁶ Domestic institutes and scientists worked under budgetary constraints that dented their capacity to conduct solid research and establish linkages with international climate science networks; worse, weak connections between domestic institutes thwarted collaborative research on climate change in India.⁶⁷ Leading institutes like the Council for Scientific and Industrial Research (CSIR) and National Physical Laboratory (NPL) that focused on climatology and meteorology scarcely interacted with policy institutes like The Energy and Resources Institute (TERI) and the Centre for Science and Environment (CSE) that concentrated on environmental policy.⁶⁸ In some cases, the focus was different; just as IPCC’s Assessment Report 1 arrived, Indian scientists were investigating the climate as it was and not how the climate changed over time.⁶⁹

Leadership was also lacklustre on climate change. In her brief tenure as Environment Minister, Maneka Gandhi pressed ahead on air and water pollution, natural resource conservation and shoring up domestic environmental governance to check rising environmental degradation.⁷⁰ Little attention, however, was given to climate change. T.P. Sreenivasan, retired MEA diplomat, recounts ‘there was great awareness around environmental pollution broadly, but not so much on climate issues, specifically. These pressures emerged because India was encountering lots of problems associated with pollution and there was a growing recognition of that.’⁷¹ Maneka Gandhi’s successor, Kamal Nath, also did not fare better; his tenure was marked by a pronounced willingness to defer internally to the MEA and externally to non-governmental organisations like TERI and CSE for assistance on climate change.⁷² These two organisations would have a key role shaping India’s climate change approach

⁶⁴Ibid.

⁶⁵Ibid.

⁶⁶Kandlikar and Sagar, *Climate Change Science and Policy: Lessons from India*, 12-13.

⁶⁷Ibid.

⁶⁸Sagar and Kandlikar, *Knowledge, rhetoric and power: international politics of climate change*, 3145.

⁶⁹J. Srinivasan, ‘Impacts of Climate Change on India’ in *Handbook of Climate Change and India: development, politics and governance*, ed. Navroz Dubash (New Delhi: Routledge, 2012), 31.

⁷⁰Dwivedi, and Vajpeyi, *Environmental policies in the third world: a comparative analysis*, 62.

⁷¹T.P. Sreenivasan, Former MEA Diplomat, Interview by author. May 7, 2015.

⁷²Jakobsen, *India's position on climate change from Rio to Kyoto: a policy analysis*, 7.

at FCCC negotiations as I detail below.

India's Domestic Climate Voices

India's core position on climate change was shaped by non-governmental organisations working on environmental issues. These two organisations – Tata Energy Research Institute (hereafter TERI) and the Centre on Science and Environment (hereafter CSE) had an important role and influence on India's climate change policy before and during climate change negotiations.⁷³ To better understand their role and impact, let us first contextualise their emergence.

As mentioned earlier, the Indian government was struggling to cope with various environmental problems from the mid-1970s. Environmental agencies were unable to keep pace with the challenges thrust on them. The government's efforts to address environmental issues were undercut by its reform-focused economic agenda in the 1980s that worsened environmental conditions. With the government flailing on the environment, an incipient environmentalist movement took root.⁷⁴ The failures of state-led industrialisation and environmental governance were exposed. Chasms emerged between affluent groups and millions of citizens confronting economic deprivation and environmental degradation. Environmentalism grew as a homegrown response with a dizzying array of groups defending a range of socio-ecological concerns.⁷⁵ The most prominent example was the Chipko movement, a series of 'tree-hugging' protests by peasants from the Himalayan foothills to halt tree felling by private contractors.^{76 77}

Young environmentalist Vandana Shiva argued that environmental groups were

⁷³In 2003, TERI's name was officially changed to The Energy and Resources Institute.

⁷⁴For decades, scholars held environmentalism was a western phenomenon, a post-materialist sentiment that shifted emphasis to 'belonging, self-expression and the quality of life' from basic sustenance concerns. A logical corollary of this claim was that developing and poor countries did not sufficiently value their physical environment, rendering impossible environmental movements of their own. Equating environmentalism with prosperity, scholars neglected a range of vibrant socio-environmental yearnings united by a sense of material and environmental deprivation. See Ramachandra Guha, *Environmentalism: A global history* (London, Penguin Books, 2014), 151.

⁷⁵Guha's 'environmentalism of the poor' captured a rich fabric of such diverse movements across the global south from Brazil to India and Thailand. See, Guha, *Environmentalism: A global history*, 149-153.

⁷⁶Chipko was representative of a litany of natural resource conflicts across India in the 1980s that pitted citizens against industrialisation and its effects on local environments - forests, fish, air, water and land. See Ramachandra Guha. *The Unquiet Woods: Ecological Change and Peasant Resistance in the Himalaya* (Berkeley: University of California Press, 2000), 152-161.

⁷⁷Guha, *Environmentalism: A Global History*, 154.

reacting against ‘a new wave of arrogant destruction. Natural resources were only valued when they could be used as raw materials in the economy. Conserved nature becomes valueless. Only those who were active in industry were valued, while humans preserving nature became devalued, such as indigenous and poor women. The real ecological battles are fought by the poor.’⁷⁸ By the mid-1980s, an estimated 100,000 environmental groups were working on issues related to the ‘diminishing availability of such basic materials as food, water, fodder and firewood.’⁷⁹ Anil Agarwal, CSE director, added that activism grew ‘as environmental awareness grew, many people began to ask: who is to blame? why are we the ones suffering?’⁸⁰

Burgeoning environmental activism spurred research on the state of the environment in India. Scholars formed networks and organisations to report on the deteriorating human environment including the depletion of resources like air and water, soil erosion, destruction of ecosystems and the extinction of wildlife. In 1985, a group of sixty including scholars, journalists and social workers released a *Statement of Shared Concern on the State of India’s Environment*. The report mapped environmental degradations marked by an assault on the ‘country’s grazing lands, forests, rivers, ponds, lakes, coastal zones, and increasingly in the atmosphere.’⁸¹ Rather forcefully, these environmentalists placed the Indian state at the heart of these problems. They deplored the Indian government’s practice of ‘converting common property resources into government resources’ that has in turn placed them ‘at the service of the more powerful.’⁸² Gradually, these voices converged on climate change through two organisations working on environmental policy.

The most prominent non-governmental organisation working on the environment was the Centre on Science and Environment (CSE). The CSE was founded in 1981 to ‘undertake research and increase public awareness of vital issues in science, technology, environment and development.’⁸³ Led by Anil Agarwal, a fiery environmentalist, the organisation strove to place the poor at the centre of environmental debates, urging the public and policymakers to appreciate the complex

⁷⁸“Forests for People: Interview with Vandana Shiva,” *Jornal Do Brasil*, June 14, 1992.

⁷⁹“Environmental Concerns Grown in the Third World,” *The Toledo Blade*, December 9, 1984.

⁸⁰*Ibid.*

⁸¹Agarwal, *The State of India's Environment*, 1984-85, 5.

⁸²*Ibid.*

⁸³“CSE: Historical Timeline.” Accessed August 11, 2015. CSE: New Delhi, 1993.

social and political conditions affecting environmental change and how those changes affected the lives of the poor. In the first few years, CSE focused on producing concise reports on how science and technology, energy use and human behaviour were impacting India's environment.⁸⁴ CSE's reports, however, set it apart from other groups for it combined analysis with evocative descriptions and visual depictions of the environment that suggested the dawn of a new "environmental colonialism."⁸⁵

The Tata Energy Resource Institute (TERI) was the other notable non-governmental organisation working on the environment.⁸⁶ Established in 1974, TERI's initial focus was to 'make a difference in the way people think about energy and help create an energy structure that would minimise pollution and other harmful environmental impacts.'⁸⁷ TERI's mandate was less political when compared to the CSE. By 1985, TERI found recognition among environmental officials 'filling gaps in governmental services and knowledge related to energy matters.'⁸⁸ But unlike the CSE, TERI's agenda and activities differed in tack and approach; less strident, TERI functioned like an internal think tank, working out the government's energy projections and estimates.⁸⁹ In different ways, both organisations distilled the importance of climate change to MoEF officials and Indian diplomats.

TERI organised and facilitated discussions on climate change so Indian officials from MoEF and the Ministry of External Affairs (MEA) could learn more about the issue. By 1988, prevailing views on climate change were split over how and, importantly, which countries should address climate change. Several climate workshops

⁸⁴Ibid.

⁸⁵CSE used cartoons and other images to describe how the 'North' or developed countries experienced far similar environmental concerns that the 'South' where environmental degradations and poverty were closely linked. One example is a cartoon of a dying African child close to its mother with a caption reading "I wish we were whales." See Sheila Jasanoff, *Earthly politics: local and global in environmental governance* (Boston: MIT press, 2004), 47.

⁸⁶Besides TERI and CSE, other organisations working on the environment included the Indira Gandhi Institute for Development Research (IGIDR) and Development Alternatives (DA). Development Alternatives (DA) retained an interest in climate change having worked on small-scale energy projects but did not seek to articulate those views to MoEF or MEA officials. But the DA advised the MoEF on the Montreal Protocol. IGIDR retained interest on India's climate approach due to Dr. Jyoti Parikh, whose participation in the IPCC in the early 1990s gave her clout with MoEF officials though it is unclear if she had direct influence. See Jakobsen, *India's position on climate change from Rio to Kyoto: a policy analysis*, 22.

⁸⁷The Energy and Resources Institute. "TERI: History," <http://www.teriin.org/themes/teriday/teri-day-inner-new.php>

⁸⁸Jakobsen, *India's Position on Climate Change from Rio to Kyoto: A Policy Analysis*, 16.

⁸⁹Ibid.

and conferences – Villach (1987) Bellagio (1988) paid heed to the plight of developing countries in tackling climate change given financial and technological constraints.⁹⁰ In 1991, the IPCC's first Assessment Report warned countries of the rising implications and costs accompanying accumulation of greenhouse gases. The report was moderate but activist in that it urged all countries to shed 'business as usual' practices and collectively mobilise against climate change.⁹¹ Importantly, Assessment Report 1 argued that 'industrialized countries and developing countries have a common responsibility in dealing with problems arising from climate change, and effective responses require a global effort.'⁹² Besides providing evidence, these workshops clarified the need for a political response to climate change.

This *political* view, absorbed through climate workshops and U.N. committee meetings in New York, informed early views of Indian diplomats present at those meetings vis-à-vis addressing climate change – that developing countries had different responsibilities vis-à-vis climate change contingent on adequate provision of financial resources from developed countries.⁹³ MEA and MoEF officials collaborated with TERI to hone this view and clarify how to best position India on climate change. In October 1989, TERI gathered Indian diplomats working on multilateral issues and MoEF officials for a conference '*Global Warming and Climate Change: Perspectives from Developing Countries*' alongside diplomats and representatives from other developing countries.⁹⁴ At the conference, several papers were presented on the emission patterns of developing countries highlighting their levels relative to developed countries. The resultant conference report singled out developed countries for 'having caused the major share of the problem' and 'possessing the resources to do something about it, industrial countries have a special responsibility to assist the developing countries in finding and financing appropriate responses.'⁹⁵ Attention was given by conference delegates to

⁹⁰World Meteorological Organization. *Developing Policies for Responding to Climatic Change: A summary of the discussions and recommendations of the workshops held in Villach and Bellagio*, (Boston: WMO, 1988), 31.

⁹¹*IPCC First Assessment Report*, (Geneva: Switzerland, Intergovernmental Panel on Climate Change, 1991)

⁹²*Ibid.*

⁹³The U.N. held preliminary discussions between countries on the issue after the scientific workshops in Villach and Bellagio. Former Indian Climate Change Negotiator, Interview by author. New Delhi, May 12, 2015.

⁹⁴The Energy and Research Institute, *Global Warming and Climate Change: Perspectives from Developing Countries* (New Delhi: TERI, 1989), 8-10.

⁹⁵*Ibid.*

sketch out what those responses would be in terms of emissions mitigation. In the end, the conference urged the Indian government to involve all levels of government in understanding the nature of climate change and its effects and calibrate its energy matrix and policies given shifting climactic conditions.⁹⁶

Having absorbed the political importance of climate change, the Indian government's official climate change position was outlined in April 1990. The V.P. Singh government hosted the *Conference of Select Developing Countries on Global Environmental Issues* 'to strengthen links and coordinate developing country positions on global environmental matters.'⁹⁷ Indian diplomats realised the importance of stitching together a coalition of developing countries that perceived climate change similarly. The Indian government expected developed countries to bear 'primary responsibility to reverse the situation by setting limits on greenhouse gas emissions.'⁹⁸ Echoing sentiments expressed at Toronto, Noordwijk and U.N. Resolution 44/228, the Indian government emphasised notions of 'equity and responsibility' to address the problem.⁹⁹ The conference eventually agreed that the 'responsibility for reduction of greenhouse gases to prevent a climate change would, therefore, rest with the developed countries.'¹⁰⁰ Politically, the statement was critical given the impact it would have at climate change negotiations.

The conference also marked the beginning of TERI's relationship with the Indian government on climate change and other environmental matters. "TERI and CSE," Environment Minister Kamal Nath remarked, "came to be my major arms of input in UNCED preparations."¹⁰¹ Over the next few years, TERI provided estimates on national greenhouse gas emissions, mitigation options and forecasting impacts of global warming that informed government policies.¹⁰² Susanne Jakobsen argues that during this period TERI 'shared impressive access to and impact on the central government's policymaking on climate change in the pre-UNCED years where they came to 'sit at the

⁹⁶Ibid.

⁹⁷Rajan, *Global environmental politics*, 102-103.

⁹⁸Government of India, *Conference of Select Developing Countries on Global Environmental Issues*. Ministry of Environment and Forests (New Delhi: LK Press: 1990)

⁹⁹Ibid.

¹⁰⁰Ibid.

¹⁰¹Ibid.

¹⁰²Ibid.

drawing-desk’ with the MoEF as it began to form a national position on climate change.¹⁰³ TERI’s policy assistance in these few years did not veer from the government’s thinking and position on climate change.¹⁰⁴ Even as the organisation provided global warming estimates to the government during and after climate negotiations, TERI researchers were aware of the boundaries of their influence that proved contingent on the government’s willingness to accept burdens vis-à-vis carbon emissions.¹⁰⁵

With this understanding, Indian diplomats participated at the Second World Climate Conference (SWCC) in October 1990. Reproaching the IPCC’s assertion of *common responsibilities*, developing countries pushed for the conference’s declaration to mark that developed countries had the ‘main responsibility’ to reduce greenhouse gases given past contributions.¹⁰⁶ When this move was contested by developed countries, both sides agreed to a declaration that stated that both ‘industrialised and developing countries have a *common but differentiated responsibility* for dealing with problems of climate change.’¹⁰⁷ The statement was vital for developing countries, including India, represented by MEA officials, for it gave them a political solution to an issue – climate change - that they now regarded as purely political and not environmental. The SWCC also marked the nadir of IPCC’s influence on climate change with the balance of power shifting from scientists to member states that found prevailing science amenable to conflicting political positions.¹⁰⁸ India approached climate negotiations with an intent to mainstream this political understanding of climate change and push back against prevailing scientific views that stressed international collective action regardless of development status or technical capabilities. But once they arrived at negotiations, it was the other environmental organisation – the CSE that fortified India’s approach and gave negotiators the intellectual basis to execute their intentions.

¹⁰³Jakobsen, *India's position on climate change from Rio to Kyoto: a policy analysis*, 12.

¹⁰⁴*Ibid.*

¹⁰⁵Former Indian Climate Change Negotiator.

¹⁰⁶IPCC, “*IPCC Report of the Second World Climate Conference*,” Accessed September 12, 2015.
<http://www.ipcc.ch/meetings/session02/second-session-report.pdf>

¹⁰⁷*Ibid.*

¹⁰⁸Peter Newell, *Climate for change: Non-state actors and the global politics of the greenhouse* (London: Cambridge University Press, 2006), 58.

Reservations that developing countries held against the IPCC doomed the network's chances of conducting international climate negotiations.¹⁰⁹ In December 1990, the U.N. passed a resolution to place negotiations under the auspices of the Intergovernmental Negotiating Committee for a Framework Convention on Climate Change (INC/FCC) with negotiations set to commence in February 1991.¹¹⁰ Before negotiations commenced, the World Resources Institute (WRI) published its Second Annual World Resources report in 1991. Prior scientific research on global warming from IPCC and other networks focused on the combustion of fossil fuels and release of carbon dioxide into the atmosphere. But the WRI report investigated the burning of biomass and release of gases like methane largely from agricultural activities to map climate change.¹¹¹ The index, used in the report, was important because it was one of the first documented attempts to measure and compare national carbon emissions, the primary marker to determine a nation's climate change responsibilities.¹¹² From the data, the report declared that 'developing countries were just as responsible' for climate change as developed countries, identifying India, Brazil and China as three of the top six emitters.¹¹³

Not only did the WRI report stake out a clear and controversial position on national greenhouse gas emissions, it forced developing countries, particularly those identified as major emitters, to clarify their respective positions on climate change.¹¹⁴ Like other developing countries, India was caught off-guard when the WRI report was unveiled. Neither was New Delhi well equipped to grapple with the report given the MoEF's weak understanding of the science of climate change.¹¹⁵ Dealing with pollution-related issues precluded environmental officials from acquiring a workable grasp on global warming or climate change. Moreover, the MoEF had no substantive links to IPCC, the principal arbiter on greenhouse gas emissions estimates.

¹⁰⁹Matthew J. Hoffmann, *Ozone depletion and climate change: constructing a global response* (New York: SUNY Press, 2012), 138.

¹¹⁰*Ibid.*, 139.

¹¹¹World Resources Institute, *Climate Change in Latin America* (Washington, D.C: World Resources Institute, 1990), 2-7.

¹¹²*Ibid.*

¹¹³*Ibid.*

¹¹⁴Former Indian Climate Change Negotiator.

¹¹⁵C. Dasgupta, "Negotiating the Framework Convention on Climate Change," In *The Ambassador's Club*, ed. K.V. Rajan (New Delhi: Harper Collins, 2012), 64.

The MoEF's knowledge deficits on climate change were embarrassingly laid bare in its official response to the WRI report. Responding publicly, Environment Minister Maneka Gandhi reflexively proclaimed 'India should stop producing rice' to curb purported emissions without considering the merits of the report and its conclusions.¹¹⁶ Gandhi's imprudent response was widely pilloried. When attendant clarifications were issued in the media, the MoEF backpedalled. Gandhi retracted her statement that India was equally responsible for greenhouse gas emissions; instead, she clarified that a 'methane conspiracy' was afoot around the greenhouse gas emissions of the poor.¹¹⁷ Ineptly, MoEF officials reinforced that a clear difference existed between the 'survival emissions of the poor' and 'luxury emissions of the rich.'¹¹⁸

The MoEF's public retraction drew directly from the direction given by CSE to the WRI report and observations. The CSE stepped in to articulate a grounded developing country perspective on global warming backed by evidence and experience. In a scorching riposte to the WRI report, CSE's head Agarwal and fellow colleague Sunita Narain published *Global Warming in an Unequal World*, where they argued that the WRI report was 'based less on science and more on politically motivated jugglery.'¹¹⁹ They claimed the report focused disproportionately on national emissions instead of per capita emissions that were considerably smaller for developing countries when compared to the developed world.¹²⁰ Agarwal and Narain also refuted the notion that greenhouse gases should be accounted for without establishing their origins. What they called for was an approach that split emissions in two kinds: 'subsistence emissions' generated by the poor to take care of themselves and 'luxury emissions' generated by the consumption patterns of the rich.¹²¹ Put simply, equity matters. Agarwal publicly reinforced equity at a symposium on climate change in early 1992,

'I tried to draw the difference really between the rich and the poor and not so much against the North and South. I have repeatedly made the point that had the

¹¹⁶Susanne Jakobsen, "Transnational environmental groups, media, science and public," in *Non-state Actors and Authority in the Global System*, ed. Richard Higgott et al. (London: Routledge, 2000), 281.

¹¹⁷Joyeeta Gupta, *The Climate Change Convention and Developing Countries: From Conflict to Consensus?* Vol. 8. (Amsterdam: Springer Science & Business Media, 1997), 87.

¹¹⁸Jakobsen, *India's position on climate change from Rio to Kyoto: a policy analysis*, 21.

¹¹⁹Anil Agarwal and Sunita Narain, "Global warming in an unequal world: A case of environmental colonialism," in *Global warming in an unequal world: a case of environmental colonialism* eds. Anil Agarwal and Sunita Narain (New Delhi: Centre for Science and Environment, 1991)

¹²⁰*Ibid.*

¹²¹*Ibid.*

W.R.I report pointed out that people like me are using too many cars and destroying the earth's atmosphere, believe me, I would have never responded against them however bad the mathematics and science or anything might have been. It is only because I got very mad at people saying that a poor farmer in Bangladesh or in West Bengal or Thailand who has half an acre of land and is producing just about enough food to survive is producing methane that is destroying the earth's atmosphere.'¹²²

Agarwal and CSE reframed climate change around social justice, the central leitmotif driving their work on the environment. Agarwal also linked the fates of the poor to international rules and systems that work against the poor and less privileged, 'if we have to move towards global environmental management, we have to develop a system of environmental rights for all human beings. Use of instruments like conventions, aid, trade and debt are all levers of power in the hands of the North. They are nothing but levers of power in the hands of the north.'¹²³

Agarwal's post-WRI report clarifications and advocacy resonated in India just as FCCC negotiations commenced in Washington. Harnessing the moment, Agarwal urged MoEF officials to adopt a proactive stance at international climate meetings that protected the interests of poorest citizens in India.¹²⁴ Agarwal also wrote a letter to Prime Minister Chandra Shekhar warning of an effort 'by western nations seeking to ram a new ecological order down the throats of the hapless third world' through international environmental conventions.¹²⁵ Remain wary of external intentions shaping the global warming discourse, Agarwal argued, given their potential effects on domestic policy should the Indian government concede to the scientific framing of the problem by networks like the IPCC.¹²⁶ His positions were a function of the CSE's larger policy advocacy that strove to place the poor at the heart of environmental policy debates; incidentally, CSE's riposte and attendant advocacy on climate change dovetailed with the Indian government's desire to evade commitments to reduce greenhouse gas emissions. Agarwal laboured to ensure the Indian government and the MoEF, in particular, did not concede to contrarian notions advanced by groups like IPCC and WRI that global warming imposed symmetric expectations on all countries. Conceding,

¹²²British Council, *Report of the Indo-British Symposium on Climate Change* (New Delhi: British Council, 1992) 191-200.

¹²³*Ibid*, 200.

¹²⁴*Ibid*.

¹²⁵Letter was referred to in the Times of India, January 21, 1991.

¹²⁶Darryl D'Monte, Environmental Journalist. Interview by author. Mumbai, June 18, 2015.

in Agarwal's view, would likely result in policy commitments incommensurate to national emission contributions, however measured, to the emergent problem.

The CSE's retort and focus on equity and history vis-à-vis emissions politicised the issue in India. A former Indian climate change negotiator asserted 'when we were looking at equity and other institutional factors, the monograph by Agarwal and Narain influenced our thinking as it placed equity at the forefront.'¹²⁷ Indian environmental journalist Darryl D'Monte refers to the CSE report as a 'game-changer that transformed the domain of discourse' on climate change in India and abroad.¹²⁸ Though already aware countries held different obligations on greenhouse gas emissions from various climate workshops and meetings, the Indian government and climate negotiators, in particular, grew acutely sensitive of the distinctions between countries when it came to reducing greenhouse gas emissions or responsibilities to curb climate change. While TERI focused on mapping the greenhouse gas emissions of developing countries, the CSE historicised the emissions debate giving developing countries added ammunition when claiming developing countries held distinct responsibilities on climate change. The CSE had a discernible impact on the atmosphere around which climate change was effectively being negotiated providing a historical and geographic context to the emissions debate.

Moving Ahead Diplomatically

India approached climate negotiations with caution. Scientific knowledge on climate change was suboptimal. The international politics around global warming had become fractious pitting developed against developing countries. Scientific networks like the IPCC advised on climate change favoured joint collective action by all countries, a position that the U.S. and several European countries endorsed. These developments set the stage for FCCC negotiations. Before negotiations, internal discussions occurred in New Delhi over which ministry should lead climate negotiations for India - Ministry of External Affairs (MEA) or Ministry of Environment and Forests (MoEF). Though the substance matter fell under the purview of MoEF, the MEA was given the lead given

¹²⁷Former Indian Climate Change Negotiator.

¹²⁸Darryl D'Monte.

political tensions surrounding the ascription of climate responsibilities.¹²⁹

Chandrashekhar Dasgupta, India's chief climate negotiator asserted 'had they been UNEP negotiations, of course it would have fallen within the purview of the MoEF. While the MoEF did rightly lead in policy coordination, when it came to negotiations, it became appropriate for MEA to take the lead.'¹³⁰ But convenience was not the only reason. Various international conferences on global warming and climate issues clarified the political importance of climate change and the need to mobilise a strong political approach at negotiations. This urgency necessitated a strong diplomatic team to defend Indian interests. The government decided that the MEA would lead with MoEF assisting on specific policy matters.¹³¹¹³² That said, the MEA's record and expertise on environmental diplomacy was also limited; unlike the MoEF, MEA did not have a separate unit to cover global environmental issues. On the Montreal Protocol, the MEA's U.N. division managed negotiations alongside other multilateral issues like disarmament, human rights, peacekeeping and Security Council matters.¹³³

Despite constraints, MEA officials acquired a sound political understanding of global warming through the UN's Second Committee that debated climate change in December 1989.¹³⁴ Several plenary discussions at the Second Committee that year focused on the 'deterioration of the environment.'¹³⁵ In fact, representing India at the Second Committee was Chandrashekhar Dasgupta who took over as India's chief climate change negotiator in Washington.¹³⁶ Dasgupta familiarised himself with climate change and how it was considered at various intergovernmental conferences including the Noordwijk Conference, 9th Non-aligned Summit and the Second World Climate Conference; all these conferences recognised that developed countries had greater

¹²⁹Before FCCC negotiations, countries negotiated the Ozone Protocol in the late 1980s. Though the MoEF took the lead here for India, MEA officials were sent midway to protect Indian interests that were being steamrolled by developed countries. See Rajan, *Global Environmental Politics*, 82-86.

¹³⁰C. Dasgupta, "Oral History - Climate Change Negotiations: Guiding the 'Overriding Priorities,'" *Indian Foreign Affairs Journal*, Vol. 6, 2 (2011): 217-229.

¹³¹Rajan, *Global Environmental Politics*, 116-118.

¹³²To facilitate inter ministerial coordination, MoEF created an Inter-Ministerial Group (IMG) under the chairmanship of its Secretary to review global environmental issues. Periodically, the MoEF received technical support from other national ministries, namely the Ministry of Power, Coal and the Ministry of Non-Conventional Energy Sources. Mukul Sanwal, Interview by author.

¹³³Rajan, *Global environmental politics*, 23-24.

¹³⁴United Nations General Assembly, *Report of the Second Committee: Resolution 44/207. Protection of global climate for present and future negotiations* (New York: UN, 1989)

¹³⁵*Ibid.*

¹³⁶Dasgupta, *Negotiating the Framework Convention on Climate Change*, 69.

responsibilities on climate change. This notion was formally endorsed by the U.N.'s Second Committee that noted since 'the largest part of the current emission of pollutants into the environment originates in developed countries,' they had the 'main responsibility for combating such pollution.'¹³⁷ These experiences led to the conference organised by TERI where discussions mapped emission patterns of developing countries. This conference also precipitated India's first climate change position in 1990. With this foundation, the Indian delegation commenced FCCC negotiations.

Underway in Washington

FCCC negotiations commenced in Washington, D.C. in February 1991.¹³⁸ Negotiations were divided between Annex I or industrialised countries and Non-Annex I consisting of developing countries; this division instantly gave developing countries leverage given their majority.¹³⁹ The first meeting sorted out the logistical framework of negotiations and how they would be conducted. Negotiations were split into two working groups.¹⁴⁰ The first group focused on commitments to limit and reduce carbon emissions.¹⁴¹ The second group was tasked to craft the legal and institutional mechanisms to enact commitments.¹⁴² Many countries, including India, stressed the importance of addressing climate change in an 'integrated and comprehensive manner,' bristling at the mention of hard targets or timetables on emission reduction.¹⁴³ Given the bifurcation of negotiations, the Indian delegation split responsibilities, with the MEA assigned the first working group and MoEF the second.¹⁴⁴

Negotiations, unsurprisingly, were marked by a North-South split with developed countries keen on tackling climate change as an environmental problem and developing countries an issue tied to their development.¹⁴⁵ India's chief negotiator Dasgupta recalls that at the beginning 'there was indeed, a clear North-South divide.

¹³⁷U.N. General Assembly, *Report of the Second Committee: Resolution 44/207* (New York: UN, 1989)

¹³⁸FCCC Secretariat, *Intergovernmental Negotiating Committee for a Framework Convention on Climate Change: Report of the First Session. A/AC.237/1/Add.1* (Geneva: FCCC Secretariat, 1991), 2.

¹³⁹*Ibid.*

¹⁴⁰*Ibid.*, 3.

¹⁴¹*Ibid.*, 3-7.

¹⁴²*Ibid.*

¹⁴³*Ibid.*

¹⁴⁴Rajan, *Global environmental politics*, 116.

¹⁴⁵C. Dasgupta, *Negotiating the Framework Convention on Climate Change*, 67.

Within the group of developing countries, on the one hand, you had countries whose economies were mainly dependent on oil exports and who were, therefore, unenthusiastic about climate change mitigation; while on the other hand, the group also included low lying island states which are threatened by physical extinction as a result of climate change and wanted maximum action on mitigation. Then there was a central group, including India, China and other countries, which sort of provided a sort of balance to the group. From the outset, India was asked to speak on behalf of the G-77 which directly placed Indian negotiators across from their European and American interlocutors who formed the other two poles during the negotiations.¹⁴⁶ The first meeting's texture validated India's political tack that hinged on framing climate change as a developmental and political issue not an environmental one given the resources, both financial and technical, required to mitigate climate change.

Marking Boundaries in Geneva

Formal negotiations resumed at the second session in Geneva in June 1991. To generate ideas on a draft framework convention, member states submitted national proposals detailing their preferences.¹⁴⁷ India did so at the outset. India's contribution stated that developed and developing countries had a responsibility to reduce emissions but this necessity, for developing countries, was contingent on respective development objectives since they had to focus on 'the eradication of poverty and the achievement of economic and social development.'¹⁴⁸ Equity starred in India's proposal. Dasgupta was clear as to how he perceived climate change when presenting India's position, 'the problem of global warming is caused not by emissions of greenhouse gases as such but by excessive levels of per capita emissions of these gases. If per capita emissions of all countries had been on the same levels as those of the developing countries, the world would not today have faced the threat of global warming. It follows therefore that developed countries with high per capita emission levels of greenhouse gases are responsible for incremental global warming.'¹⁴⁹

¹⁴⁶Ibid.

¹⁴⁷Ibid.

¹⁴⁸FCCC Secretariat, *Set of informal papers provided by delegations related to the Framework Convention on Climate Change*. A/AC.237/Misc.1/Add.4/Rev.1. (Geneva: FCCC Secretariat, 1991)

¹⁴⁹C. Dasgupta, 'Present at the Creation: Negotiating the UN Framework Convention on Climate Change,' in *Handbook of climate change and India: development, politics and governance*, ed. N. Dubash, (New Delhi: Routledge, 2012), 91.

India's position emphasised the historical nature of industrialisation and development in assessing climate change that placed greater burdens on those that had industrialised over those that had not. The proposal did not go into the specifics of how climate change affected India nor did it wade into scientific estimates on global warming provided by the IPCC.¹⁵⁰ Given India's weak engagement with the scientific network and the controversial politics surrounding the IPCC's dictums, the Indian delegation steered clear of the science of climate change. Instead, India's paper historicised emission trends precipitating the onset of climate change; this focus ring-fenced from consideration current estimates of global warming trends that the IPCC laid out.¹⁵¹ This approach also narrowed the understanding of climate change at negotiations, especially for many developing countries unclear on the implications of accepting commitments to reduce greenhouse gas emissions.

The Indian proposal urged developed countries to address climate change by establishing national plans to stabilise greenhouse emissions, providing financial resources to assist developing countries, transferring environmentally sound technologies and building their capacities in scientific and technological research.¹⁵² Dasgupta attributed India's differentiated focus to the importance of economic development to negotiations and the framework convention, 'because we realised what was at stake and that was the issue of responsibilities and how it had to be divided. Climate change was not caused by carbon emissions as such but excessive carbon emissions that was historically conditioned. And this had to be taken account of.'¹⁵³ On financial assistance, the Indian proposal called for an independent fund that would 'be democratically administered by the parties to the convention, rather than through institutions where donors have disproportionate influence.'¹⁵⁴ From developing countries, however, India expected little; New Delhi's stance hinged on external actions from developed countries to manage and mitigate the problem.

¹⁵⁰FCCC, *Set of informal papers provided by delegations related to the Framework Convention on Climate Change*.

¹⁵¹FCCC, *Set of informal papers provided by delegations related to the Framework Convention on Climate Change*.

¹⁵²Ibid.

¹⁵³Chandrashekar Dasgupta, Former Indian FCCC Negotiator, Interview by author. April 2, 2015

¹⁵⁴FCCC, *Set of informal papers provided by delegations related to the Framework Convention on Climate Change*.

Importantly, the paper defined climate change and how it was understood from a developing country perspective.¹⁵⁵ Dasgupta recalls that through the proposal, ‘India made a vital contribution since developing countries often cede invaluable political space to developed countries in international negotiations that allows the latter to control the course and pace of negotiations. I was determined that this should not happen in climate change negotiations. It was essential to define the issues appropriately and present our own proposals right at the beginning.’¹⁵⁶ Prime Minister Narasimha Rao, briefed by Dasgupta on negotiations before hand, advised his chief negotiator to reject any proposal that would hamper India’s development.¹⁵⁷ Rao gave broad directions to negotiators without getting involved in the details.¹⁵⁸

The Indian proposal also received support from China. Before the second negotiating session, the Chinese government hosted a conference entitled ‘The Ministerial Conference on Environment and Development of Developing Countries’ that gathered representatives from the developing world. Emerging from discussions was the ‘Beijing Ministerial Declaration on Environment and Development’ that insisted on the right for developing countries to grow in light of growing international concerns vis-à-vis environmental protection from the 1970s.¹⁵⁹ In fact, through the Beijing conference and FCCC negotiations, an incipient partnership between China and India ‘became a mainstay of Chinese negotiating strategy’ given convergence on protecting their development trajectories from potential climate change commitments.¹⁶⁰ China’s support emboldened India’s stance but there was pushback from other countries.

Opposition came from Gulf and Small Island states that had different concerns of the Indian position. Saudi objections revolved around India’s focus on per capita emissions that would place it at a disadvantage given high emissions from fossil fuel

¹⁵⁵Ibid.

¹⁵⁶Dasgupta, *Negotiating the Framework Convention on Climate Change*, 93.

¹⁵⁷Ibid.

¹⁵⁸Ibid.

¹⁵⁹Miranda A. Schreurs and Elizabeth Economy, *The internationalization of environmental protection*. (New York: Cambridge University Press, 1997), 33-34.

¹⁶⁰Ibid.

production.¹⁶¹ Island states, on the other hand, were keen to sharpen commitments for countries located in highly vulnerable areas prone to climactic shifts.¹⁶² Brazil and other Latin American countries were receptive to accept obligations if anchored at ‘differentiated’ levels which implicitly accepted some climate responsibilities without spelling them out.¹⁶³ The British proposal emphasised international cooperation *between all countries* as important to ‘take a full part in the international response to climate change.’¹⁶⁴ The U.S. did not tread far from this stance. Recognising ‘different nations have different social, economic and other circumstances,’ Washington pushed for flexibility in crafting national responses while stressing all nations participate.¹⁶⁵

Financial assistance was a vital issue at negotiations. Quite clearly, the Indian proposal advocated for the establishment of an independent climate fund to meet the ‘costs for developing countries to adapt and mitigate the effects of climate change.’¹⁶⁶ India placed the onus on developed countries to establish and finance the fund with a caveat that all resources be exclusively available to developing countries.¹⁶⁷ Financing was a crucial plank in India’s paper and approach given how Indian negotiators conceptualised climate change. Politically, tackling climate change at the global level would rest on financial assistance provided to developing countries and Indian negotiators pushed hard for sufficient resources to realise that cause.

Most developed countries, however, were not as specific or forthcoming on financial assistance.¹⁶⁸ Germany agreed that developed countries should provide ‘adequate and additional financial resources’ without giving details.¹⁶⁹ France focused on domestic policy changes that can be made like instituting taxes, bolstering regulations and providing incentives to curb greenhouse gas emissions.¹⁷⁰ The British paper offered more detail here; to assist developing countries, London called for

¹⁶¹Rajan, *Global environmental politics*, 126.

¹⁶²FCCC, *Set of informal papers provided by delegations related to the Framework Convention on Climate Change*.

¹⁶³*Ibid.*

¹⁶⁴*Ibid.*

¹⁶⁵*Ibid.*

¹⁶⁶*Ibid.*

¹⁶⁷*Ibid.*

¹⁶⁸FCCC Secretariat. *Intergovernmental Negotiating Committee for a Framework Convention on Climate Change: Report of the Second Session*. A/AC. 237/9. (Geneva: FCCC Secretariat, 1991)

¹⁶⁹FCCC, *Set of informal papers provided by delegations related to the Framework Convention on Climate Change*.

¹⁷⁰*Ibid.*

developed countries to mobilise necessary financial resources through the Global Environment Facility (GEF) of the World Bank with assistance from the United Nations Environment Programme (UNEP) and the United Nations Development Programme (UNDP).¹⁷¹ Conspicuous by their silence on financial assistance was the U.S. American delegates focused more on technology transfer to developing countries more than financial assistance; Washington argued that before finances can be transferred, more required research and analysis was required given 'existing ambiguities' on the costs and benefits of global warming.¹⁷²

The second meeting ended without consensus. The first working group that considered commitments was split. Most developing countries, except Gulf and Island states, pushed to differentiate responsibilities between developed and developing countries and of the attendant need to meet potential costs from that commitment.¹⁷³ There was a divergence on the nature of specific commitments required; several delegations, especially the U.S., felt that the framework convention should be flexible enough for states to work with while the Europeans preferred clear pledges.¹⁷⁴ The Indian view that many developing countries shared expected developed countries to commit to specific targets and developing countries to follow a path consistent with their 'respective capabilities' without specifying further.¹⁷⁵

The second working group that considered legal and institutional mechanisms to enact commitments was also divided. Some developing countries, including India, declared their preference for a separate climate fund with contributions from industrialised countries.¹⁷⁶ The U.K.'s position stood in contrast, suggesting a new institution would be expensive to create and operate, instead pushing for financial assistance through existing U.N. agencies.¹⁷⁷ In the end, the second session was remembered for the sheer range of issues discussed. But the concerns of developing countries laid bare in this session would shape the contours of negotiations. Importantly,

¹⁷¹FCCC, *Set of informal papers provided by delegations related to the Framework Convention on Climate Change*.

¹⁷²*Ibid.*

¹⁷³FCCC, *Report of the Second Session for a Framework Convention on Climate Change*.

¹⁷⁴*Ibid.*

¹⁷⁵*Ibid.*

¹⁷⁶This included several coastal and island states like Vanuatu, Fiji, etc. that arrived at negotiations with an urgency. See FCCC, *Report of the Second Session for a Framework Convention on Climate Change*.

¹⁷⁷*Ibid.*

the Indian paper constricted the space around discussions by declaring a defensive developing country perspective on climate change that ruled out commitments and expected financial assistance.

Battling in Nairobi

India retained pressure on developed countries for financial assistance in Nairobi from September 1991. New Delhi firmly objected to Japan's pledge and review proposal, where all states would commit to limit greenhouse gas emissions and subsequently report measures taken for formal review; Indian delegates insisted the framework convention be anchored on per capita emissions with remedial actions taken based on contributions from developed countries.¹⁷⁸ Despite a clear stance on financial assistance, Indian negotiators extended an olive branch, proposing that developing countries might implement specific projects to reduce emissions, provided costs are fully met for such projects.¹⁷⁹ The Indian proposal was endorsed by other developing countries that felt some compromises had to be made to move the dialogue on commitments and financial assistance. The Chinese delegation also submitted a proposal pronouncing their preferences on the framework convention. Beijing recognised the need for international cooperation based on equity where responsibilities are common but *differentiated* among member states.¹⁸⁰ Backing India, Beijing endorsed a separate international fund 'composed of adequate, additional and timely' financial resources.¹⁸¹

Nonetheless, clear distance remained between countries on commitments to reduce emissions.¹⁸² The Indian position on commitments, that many developing countries endorsed, argued that specific mitigation commitments should only apply to

¹⁷⁸FCCC Secretariat, *Preparation of a Framework Convention on Climate Change: Submitted by the Bureau of Working Group 1: Commitments on Financial Resources and Technology*. A/AC.237/WG.1/CRP.3/REV.1. (Geneva: FCCC Secretariat, 1991)

¹⁷⁹Rajan, *Global environmental politics: India and the North-South politics of global environmental issues*, 109.

¹⁸⁰FCCC Secretariat, *Preparation of a Framework Convention on Climate Change: Report of the Third Intergovernmental Session for a Framework Convention on Climate Change*. A/AC.237/12. (Geneva: UNFCCC Secretariat, 1991)

¹⁸¹FCCC Secretariat, *Set of informal papers provided by delegations related to the Framework Convention on Climate Change*.

¹⁸²FCCC, *Report of the Third Intergovernmental Session for a Framework Convention on Climate Change*

developed countries but this view was rejected by the U.S. that maintained commitments should be applicable to all countries.¹⁸³ On the financial mechanism, two specific options were discussed – an independent international fund or the Global Environment Facility (GEF) backed by the World Bank, UNDP and UNEP.¹⁸⁴ The GEF option was supported by developed countries given the operational costs associated with creating new institutions while India and other developing countries backed an independent fund to provide funding based on recipient needs.¹⁸⁵ Developing countries had little faith funding would be provided without conditions given how development finance was disbursed through existing donors like the World Bank.¹⁸⁶

When it became clear that the G-77 group could not agree on commitments due to resistance from Island states, a new coalition consisting of India, China and fifty-two developing countries formed to gather consensus.¹⁸⁷ Steering a middle course, this group resubmitted a proposal on commitments that called on developed countries, on the basis of assessed contributions, to meet the costs accompanying climate mitigation and adaptation.¹⁸⁸ Gaps, however, widened between developed countries who sought to unite on the basis of the EC's stabilisation proposal that called for all industrialised countries to set and achieve clear stabilisation targets.¹⁸⁹ But this proposal was rejected by the U.S. that opposed precise stabilisation targets in favour of flexibility.¹⁹⁰ As negotiations concluded in Nairobi, developed countries found themselves divided on emissions commitments while developing countries appeared united on commitments through a smaller group.¹⁹¹

¹⁸³Ibid.

¹⁸⁴FCCC, *Submitted by the Bureau of Working Group I: Commitments on Financial Resources and Technology*.

¹⁸⁵Ibid.

¹⁸⁶Former Indian Climate Change Negotiator.

¹⁸⁷This group did not include Small Island and Gulf States. See Rajan, *Global Environmental Politics*, 109.

¹⁸⁸Ibid, 114.

¹⁸⁹Angela Liberatore, 'From Arrhenius to the Kyoto Protocol: Climate Change and the Interchange between Science and Policy.' In *Knowledge, power, and participation in environmental policy analysis*, eds. Rob Hoppe and William Dunn (New York: Transaction Publishers, 2001), 185.

¹⁹⁰FCCC Secretariat, *Preparation of a Framework Convention on Climate Change: Elements related to the preamble, principles and commitments*. A/AC.237/Misc.12. (Geneva: UNFCCC Secretariat, 1991)

¹⁹¹FCCC, *Report of the Third Intergovernmental Session for a Framework Convention on Climate Change*.

Consolidating in Geneva

India returned to Geneva for the fourth negotiating committee session in December 1991 with a desire to finalise provisions on financing and commitments.¹⁹² As negotiations progressed, a group of forty-three developing countries, including India, submitted a separate proposal on commitments to push for consensus on the matter.¹⁹³ On responsibilities, the document stated ‘feasible measures to address climate change’ should be taken only in accordance with national development plans and priorities, again provided costs are met on a regular basis.¹⁹⁴ The proposal did not take a specific stance on developed country commitments to curb emissions but impelled them to ‘provide on a grant basis new, adequate, and additional financial resources to meet the incremental costs’ that developing countries would incur.¹⁹⁵ The text also called for transferring technologies on ‘concessional, preferential and favourable terms.’¹⁹⁶ What negotiators from developing countries gathered was that the thrust of negotiations and path to an acceptable framework convention hinged on the amount of financial assistance received from developed countries to deflect the focus from what developing countries ought to do. Indian negotiators increased calls for financial assistance as negotiations progressed; reservations, however, remained from developed countries.

Negotiations evolved to assume a ‘trilateral character’ between European countries, United States and the G-77 with its offshoots.¹⁹⁷ Washington continued to rebuff conditions on emission reductions, stabilisation of greenhouse gases and transfer of technology and financial resources ‘on anything other than commercial terms.’¹⁹⁸ On financing, developed countries continued to support the GEF option; to allay concerns of developing countries, OECD countries agreed to restructure the GEF’s governance

¹⁹²FCCC Secretariat, *Preparation of a Framework Convention on Climate Change: Draft Provisional Agenda for the Fourth Intergovernmental Session for a Framework Convention on Climate Change*. A/AC.237/WG.1/L.6. (Geneva: UNFCCC Secretariat, 1991)

¹⁹³This group included Algeria, Bangladesh, Benin, Bhutan, Brazil, Cameroon, Chad, Chile, China, Colombia, Congo, Cuba, Dominican Republic, Gambia, Ghana, Guinea, Guinea Bissau, India, Indonesia, Kenya, Lesotho, Madagascar, Malawi, Malaysia, Mali, Mexico, Morocco, Mozambique, Namibia, Niger, Nigeria, Pakistan, Peru, Philippines, Sao Tome and Principe, Sierra Leone, Sudan, United Republic of Tanzania, Thailand, Tunisia, Uganda, Vietnam and Zimbabwe. See UNFCCC Secretariat, *Preparation of a Framework Convention on Climate Change: Proposal on the entire section for commitments for a Framework Convention on Climate Change*. A/AC.237/WG.1/L.7. (Geneva: FCCC Secretariat, 1991)

¹⁹⁴*Ibid.*

¹⁹⁵*Ibid.*

¹⁹⁶*Ibid.*

¹⁹⁷Dasgupta, *Negotiating the Framework Convention on Climate Change*, 94.

¹⁹⁸Rajan, *Global Environmental Politics*, 118.

arrangements to give them a greater say in the way funds are disbursed.¹⁹⁹ The E.C. insisted on time-sensitive stabilisation targets for all developed countries which most developing countries endorsed with financial resources and technology added on.²⁰⁰ But it was still unclear whether the U.S. would agree to the proposal.

To clarify their position on commitments, the G-77 advanced a joint statement extolling the right to economic development hoping it would be added to the final framework convention.²⁰¹ The position advanced that ‘measures to guard against climate change should be integrated into national development programmes taking into account that environmental standards valid for developed countries may have inappropriate and unwarranted social and economic costs in developing countries.’²⁰² Reflecting the initial Indian proposal, the G-77 statement reiterated that the historical differences of emission patterns must be respected when negotiating climate change commitments.²⁰³

To move negotiations forward, Working Group I began streamlining portions, culling discordant elements to arrive at a more agreeable text.²⁰⁴ But differences remained among developed countries on commitments; both the U.S. and E.C opted to shelve negotiations with developing countries until they found common ground amongst themselves.²⁰⁵ India, like other developing countries, had to wait until the E.C. and U.S. reconciled their differences for a breakthrough. Indian negotiator Dasgupta recalls ‘we drew a blank in our efforts to sound the E.C. and U.S. separately on a deal. I came to the conclusion that neither of these parties were prepared to enter into substantive negotiations with developing countries. The result was a deadlock in the INC.’²⁰⁶ Differences remained on all issues - commitments developed countries were willing to assume, amount of financial assistance they would provide to developing

¹⁹⁹FCCC Secretariat, *Preparation of a Framework Convention on Climate Change: Proposal on the entire section for commitments for a Framework Convention on Climate Change*. A/AC.237/WG.1/L.7. (Geneva, FCCC Secretariat, 1991)

²⁰⁰Ibid.

²⁰¹UNFCCC Secretariat, *Preparation of a Framework Convention on Climate Change: Joint statement of the Group of 77 at the Fourth Intergovernmental Session for a Framework Convention on Climate Change*. A/AC.237/WG.1/L.8 (Geneva: FCCC Secretariat, 1991)

²⁰²Ibid.

²⁰³Ibid.

²⁰⁴Rajan, *Global environmental politics*, 132-133.

²⁰⁵Ibid.

²⁰⁶Dasgupta, *Present at the Creation: Negotiating the UN Framework Convention on Climate Change*, 91.

countries, mechanism channelling financial assistance and obligations developing countries were willing to accept should financing and technology arrive. As a result, negotiations went directly into drafting mode at the end of the fourth session without resolving existing differences.²⁰⁷

Finalising the Framework Convention

The fifth negotiating committee session took place in February 1992 in New York.²⁰⁸ Prevailing differences were complicated by the transatlantic divide on both parts of the convention – emissions commitments and financial resources. Washington's reluctance to accept a stabilisation target and agree conclusively on financial assistance threatened to attenuate the framework convention to an agreement that required weak commitments from all member states to tackle climate change.²⁰⁹ Developing countries grew apprehensive that reservations from developed countries would ricochet back forcing them to modify their positions to produce an agreement.²¹⁰ This fear incensed Indian negotiators having clearly established their position of no emission reduction commitments under any condition. Dismayed by the deadlock, the G-77 issued a joint statement asserting 'developed countries must clearly indicate the commitments on emissions for stabilisation and reduction that they are willing to enter into along with a specific time-table.'²¹¹

Progress, however, was made on financial assistance. The E.C. agreed to provide 'new and additional' financial resources to developing countries for mitigation that the U.S. accepted, in principle, without specifying details.²¹² Both the U.S and E.C. also detailed their plan for restructuring the GEF to invest more power in the hands of developing countries on how financing would be provided.²¹³ Though this concession did not assuage all developing countries, it made the GEF palatable. Near the end of the

²⁰⁷Dasgupta, *Negotiating the Framework Convention on Climate Change*, 212.

²⁰⁸FCCC Secretariat, *Preparation of a Framework Convention on Climate Change: Provisional Agenda of the Fifth Session for a Framework Convention on Climate Change*. A/AC.237/21. (Geneva: FCCC Secretariat, 1992)

²⁰⁹Rajan, *Global environmental politics*, 133.

²¹⁰Dasgupta, *Negotiating the Framework Convention on Climate Change*, 98.

²¹¹FCCC Secretariat, *Preparation of a Framework Convention on Climate Change: Report of the First Part of the Fifth Intergovernmental Session for a Framework Convention on Climate Change*. A/AC.237/L.12. (Geneva: FCCC Secretariat, 1992)

²¹²Rajan, *Global Environmental Politics*, 146.

²¹³*Ibid.*

final plenary session, the revised text from work done by both working groups was submitted.²¹⁴ With no time left to bridge existing gaps, the forum decided to suspend negotiations and adjourn matters until another meeting, created as the second part of the fifth session to make necessary compromises and produce a framework convention in time for the Rio Convention in June 1992.²¹⁵

The second part of the fifth session continued in May 1992 in New York.²¹⁶ News arrived that the U.S. and E.C. had settled their differences on emissions. With the breakthrough, the chairman submitted a working paper covering commitments and mechanisms for transferring funds and technologies.²¹⁷ Based on the revised text from the previous session, the working paper presented a more balanced framework convention reflecting trade-offs on a range of contentious provisions including financial assistance.²¹⁸ A key procedural change was adopted to accelerate negotiations. At the chairman's suggestion, discussions on the revised text were moved to an 'enlarged bureau' that included about two dozen countries that had played a key role at negotiations.²¹⁹

The chairman's resultant text sought to balance interests of developing and developed countries. For the former, their demand of no oversight of national plans to curb emissions was inserted.²²⁰ Requests for adequate financial resources were acknowledged and compliance to treaty provisions were contingent on the arrival of financial resources and transfer of technology.²²¹ Lead Indian negotiator Dasgupta adds that the latter inclusion was significant, 'the critical point in terms of financing, from our standpoint, was that the entitlement of financing be enshrined in the framework

²¹⁴FCCC Secretariat, *Preparation of a Framework Convention on Climate Change: Questions for Consideration at the Second Part of the Fifth Intergovernmental Session*. A/AC.237/19. (Geneva: FCCC Secretariat, 1992)

²¹⁵FCCC Secretariat, *Report of the First Part of the Fifth Intergovernmental Session for a Framework Convention on Climate Change*.

²¹⁶FCCC Secretariat, *Preparation of a Framework Convention on Climate Change: Provisional Agenda and annotations, including suggestions for the organization of work for a Framework Convention on Climate Change*.

²¹⁷*Ibid.*

²¹⁸*Ibid.*

²¹⁹C. Dasgupta, "The climate change negotiations." In *Negotiating climate change: the inside story of the Rio Convention*, eds. Irving Metzner and J. Amber Leonard (Cambridge, UK: Cambridge University Press, 1994), 138.

²²⁰FCCC Secretariat, *Article 4: Commitments for the completion of a Framework Convention on Climate Change*. A/AC.237/CRP.1/Add.2 (Geneva: FCCC Secretariat, 1992)

²²¹*Ibid.*

convention. And also the acknowledgement that we were developing countries that had overriding social and economic commitments, which had to be respected in the framework and it was.’²²² On the financial mechanism, the text stated that it would not create an independent fund but make every effort to ensure that the existing entity or the GEF would be ‘transparent, balanced and operate under the authority of the Conference of Parties.’²²³ The Indian delegation agreed to the language.

For developed countries, the text contained weak commitments on emission reduction. At the plenary, Dasgupta prodded developed countries to settle on a concrete position, ‘OECD countries were not keen to commit to clear targets, especially the U.S that did not even want to commit to any stabilisation requirements, let alone reduction targets. Near the end, with much difficulty, we brought it back to the plenary forum where this issue was debated. I submitted an amendment calling for clarifications to OECD commitments that were riddled with ambiguities but eventually that made it into the treaty.’²²⁴ When questioned by Dasgupta on the statement’s ambiguity, the chairman clarified it was as such due to the inability of developed countries to agree on a precise pledge.²²⁵ Nonetheless, developed countries were urged to ‘take all practicable steps to promote, facilitate and finance, as appropriate, access to and transfer of environmentally-sound technologies and knowhow.’²²⁶ Though developing countries pushed to insert ‘full agreed incremental costs’ from developed countries for reducing emissions, the ensuing text only allowed for ‘agreed costs.’²²⁷

Objections aside, the chairman insisted to not debate the merits of the position of developed countries given the difficulties surrounding their settlement. Indian negotiators pushed again to consider several provisions in the text, particularly developed country commitments.²²⁸ Given the text and unsure whether they could consent to a largely toothless convention, the Indian delegation sought political counsel from New Delhi on the course to take.²²⁹ The Prime Minister’s office directed Indian

²²²Dasgupta, *The Climate Change negotiations*, 140.

²²³FCCC Secretariat, *Article 11 Financial Commitments for the completion of a Framework Convention on Climate Change*. A/AC.237/CRP.I/Add.6 (Geneva: FCCC Secretariat, 1992)

²²⁴Dasgupta, *The climate change negotiations*, 139.

²²⁵*Ibid.*

²²⁶FCCC. *Article 4, Commitments for the completion of a Framework Convention on Climate Change*.

²²⁷*Ibid.*

²²⁸Dasgupta, *The Climate Change Negotiations*, 135.

²²⁹Rajan, *Global Environmental Politics*, 144-145.

negotiators to work with other leading developing countries like China to protect their flank but leave the door open to a deal.²³⁰ There was no clear executive directive from New Delhi through the course of negotiations. To secure changes to the text on unfulfilled provisions, India lobbied influential developing countries, especially China. With some support, the clause on financial resources was amended to reflect ‘agreed full incremental costs.’²³¹ On the suggested body that would monitor treaty implementation, another Indian amendment was passed, confining the body’s authority only over developed countries and their commitments.²³² After agreements were secured on other issues, texts were distributed to the larger plenary session for approval.²³³

On May 9 1992, the United Nations Framework Convention on Climate Change (UNFCCC) was formally adopted.²³⁴ The framework convention endorsed the view that climate protection is contingent on ‘common but differentiated responsibilities and respective capabilities,’ recognising that economic and social development and poverty eradication are overriding priorities of developing countries.²³⁵ Though the text did not clarify responsibilities of developed countries, it called on them to ‘take the lead in combating climate change and the adverse effects itself.’²³⁶ The framework convention also recognised that actions of developing countries would be measured only by the ‘effective implementation by developed country parties of their commitments under the Convention related to financial resources and transfer of technology.’²³⁷ The document also enshrined that ‘agreed full incremental costs’ be given by developed to developing countries for climate mitigation.²³⁸ On the financial mechanism, a compromise was reached by entrusting the responsibility to the World Bank’s Global Environment Facility (GEF).²³⁹

²³⁰Ibid.

²³¹Dasgupta, *The climate change negotiations*, 139.

²³²Rajan, *Global Environmental Politics*, 144.

²³³Dasgupta, *The climate change negotiations*, 135.

²³⁴FCCC Secretariat, *Preparation of a Framework Convention on Climate Change: Report of the Fifth Session for a Framework Convention on Climate Change*. A/AC.237/18 (Geneva: FCCC Secretariat, 1992)

²³⁵FCCC Secretariat, *United Nations Framework Convention on Climate Change*. FCCC/Informal/84. GE.05-62220 (New York: United Nations, 1992)

²³⁶Ibid.

²³⁷Ibid.

²³⁸Ibid.

²³⁹Ibid.

Despite weak commitments imposed by the framework convention on both developed and developing countries, there was a pervading sense that the result was the most palatable outcome as negotiations ended.²⁴⁰ While Indian negotiators were disappointed by the inability to extract specific commitments from developed countries on emissions, they managed to protect their interests on both commitments and financial assistance. As per their original intent, Indian negotiators managed to stave off emission reduction commitments and secured promises of financial assistance, though unspecified, for developing countries before undertaking mitigation actions.²⁴¹ At the end, Indian negotiator Dasgupta declared ‘my government will sign the climate change treaty - we will sign it in Rio.’²⁴² India signed the United Nations Framework Convention on Climate Change on June 10 1992 and ratified it on November 1 1993.

Conclusion

India worked to negotiate and ratify a weak Framework Convention on Climate Change to foreground an alternative political understanding of climate change that would protect its development trajectory from climate change commitments. Institutions, particularly the Ministry of Environment and Forests (MoEF), did not have a sound understanding of climate change having missed international debates on the issue and having been preoccupied by other environmental problems. This knowledge gap left the Indian government wanting in terms of preparing a strong environmental approach to climate change even as Indian diplomats grasped the international politics of the subject. But existing institutional gaps were filled by advocacy and assistance from domestic interest groups like The Energy and Resources Institute (TERI) and the Centre for Science and Environment (CSE) who furnished the government with perspectives on how developing countries were affected by the issue. Their understanding placed the onus on industrialised countries to lead in addressing the problem. Both CSE and TERI remained abreast over the international discourse on climate change that emphasised shared responsibilities between all countries. They sensed that accepting this tack would harm India’s development given the commitments accompanying climate mitigation. Working with the Ministry of External Affairs and MoEF in different capacities, TERI

²⁴⁰Rajan, *Global environmental politics*, 133.

²⁴¹*Ibid.*

²⁴²“Lines Tighten as Summit Opens,” *The Straits Times*, June 3, 1992, 3.

and CSE instilled the importance of having a development-centric climate change position that emphasised history and equity. Indian negotiators adopted this tack and sought to anchor the framework convention on principles of equity and differentiation that exempted developing countries from unconditional commitments to reduce greenhouse gas emissions with financial assistance provided for remedial measures. At negotiations, Indian delegates worked with their developing country counterparts to ensure discussions did not stray from this agenda that led to a framework convention weak on emissions reduction commitments but strong in terms of protecting economic development priorities.

Chapter Five - India and the Comprehensive Test Ban Treaty

Introduction

This chapter covers India's rejection of the Comprehensive Test Ban Treaty (CTBT), the first post-cold war multilateral nuclear disarmament treaty. Signatories to the CTBT agree to ban nuclear weapon explosions in all environments. The chapter first provides a brief background recounting developments leading to CTBT negotiations and India's behaviour at negotiations. Then it moves to consider why India's CTBT behaviour was puzzling. After that, the chapter provides an analytical narrative that describes how interests, institutions and interest groups interacted to determine India's approach at negotiations leading and the subsequent rejection. Briefly, before negotiations, Indian diplomats and disarmament officials in the Ministry of External Affairs understood how a nuclear test ban agreement would affect India and sought to negotiate a treaty that protected their security interests. Besides the MEA, there existed several domestic voices, namely strategic experts, who wanted to shape the government's position at negotiations. Through commentary, writings and consultations with MEA officials, these experts conveyed their views on the treaty. However, the range of views presented precluded the consolidation of any clear position. This situation gave the Indian government more leeway in terms of determining whether to accept or reject the treaty, eventually choosing the latter option.

Background

In the mid-1980s, international civil society organisations were actively pressing both the United States and Soviet Union to commit to a nuclear test ban agreement.¹ Organisations like the Five Continent Peace Initiative and the International Physicians for the Prevention of Nuclear War (IPPNW) were highlighting the deleterious effects of continued nuclear testing and even the possibility of a nuclear conflict.² In the past, joint disarmament efforts between both super powers were foiled by recurring internal

¹Rebecca Johnson, *Unfinished Business: The Negotiation of the CTBT and the End of Nuclear Testing* (Geneva: United Nations Institute for Disarmament Research, 2009), 10.

²Jane. M. Orient, "International Physicians for the Prevention of Nuclear War: Messiahs of the nuclear age?" *The Lancet*, 332, 8621 (1988): 1186.

qualms over verification. Even as both countries signed a panoply of arms control treaties since 1960, they did not seriously consider banning nuclear tests.³

Then in 1985 Mikhail Gorbachev became the leader of the Soviet Union. Stuck in an economic crisis at home and a fruitless conflict in Afghanistan, Gorbachev decided to undertake an ambitious program of reforms.⁴ One part of the program covered nuclear disarmament. Gorbachev declared a moratorium on nuclear testing on August 5, 1985 after the Third Nuclear Non-Proliferation Treaty (NPT) Review Conference that brought the prospect of a nuclear test ban agreement to the fore.⁵ Even though many non-aligned states supported this move, little support came from nuclear weapon states for the initiative. Gorbachev and Reagan then convened at the Reykjavik Summit in October 1986.⁶ From their meeting came the Intermediate Range Nuclear Forces Treaty (INF) that required both countries destroy categories of intermediate range tactical nuclear weapons.⁷ Importantly, Moscow appeared willing to accept intrusive verification standards that had hitherto been the bugbear of arms control deliberations.⁸ There was hope that this outcome could lead to test ban negotiations. Soon enough, a window opened with talks scheduled on the NPT's renewal.

NPT signatories convened for the Fourth NPT Review Conference in August 1990. Near the end, a group of non-nuclear weapon states pushed to secure a commitment for more 'bilateral and multilateral action' on a possible test ban.⁹ Of nuclear weapon states, only the Soviet Union supported the move.¹⁰ Still resisting, the United States backpedalled, offering 'step-by-step negotiations' between the

³In fact, United States supported by the UK foiled all attempts to bring up the issue of a test ban at the CD in the mid 1980s. See J. Edmonds, "A Complete Nuclear Test Ban—Why has it taken so long?," *Security Dialogue*, vol. 25, 4 (1994): 380.

⁴Reforms or *Glasnost* that referred to openness or greater political and economic freedoms for Soviet citizens and *Perestroika* or the reconstruction of the Soviet political and economic system. See "*Glasnost and Perestroika*" Cold War Museum 2009, <http://www.coldwar.org/articles/80s/glasnostandperestroika.asp>.

⁵Johnson, *Unfinished Business*, 26-29.

⁶Ibid, 28.

⁷Ibid.

⁸Ibid.

⁹President de Rivero of Peru called for negotiations between 16 states to reach an agreement on CTBT language. States included the United States, the United Kingdom and the Soviet Union, and Australia, Canada, New Zealand, Poland, Sweden, Indonesia, Iran, Mexico, Nigeria, Peru, Sri Lanka, Venezuela and Yugoslavia. Mexico led the non-aligned opposition. See Johnson, *Unfinished Business*, 34.

¹⁰China and France did not accede to the NPT until after the 1990 Review Conference. Of the three nuclear-weapon states at the 1990 NPT Review Conference, only the Soviet Union supported the CTBT.

superpowers on testing limitations hoping it would lead to a complete ban on testing.¹¹ Despite last minute negotiations, the impasse could not be broken with the U.S rejecting the proposed language; as a result, the entire review conference collapsed having failed to secure a final agreement on issues discussed.¹²

The breakdown made it clear that the NPT's extension hinged on Article VI that called for progress on a nuclear test ban agreement. But the problem was how to bring nuclear weapon states to the negotiating table to achieve this goal. One option was the creation of a 'bridge' or temporary reprieve from the problem - nuclear testing; in other words, a temporary suspension of nuclear testing that would create a conducive climate for test ban negotiations.¹³ With much difficulty, all nuclear weapon states agreed to moratorium by April 1992. This development eventually gave way to the U.N. General Assembly's resolution on the Comprehensive Test Ban Agreement (hereafter CTBT) adopted on December 9, 1992.¹⁴ Soon thereafter, the Conference on Disarmament (hereafter CD) adopted a negotiating mandate for the Ad-Hoc Committee on a Nuclear Test Ban to 'negotiate intensively a universal and multilaterally and effectively verifiable comprehensive nuclear test ban treaty, which would contribute effectively to the prevention of nuclear weapons in all its aspects, to the process of nuclear disarmament and therefore to the enhancement of international peace and security.'¹⁵

India hailed the CD's decision. At the CD, India's representative M.M. Jacob proclaimed, 'we believe that the CTBT would go a long way in arresting a nuclear arms race and bring to an end the development of more lethal warheads.'¹⁶ For decades, India pressed the U.N. and CD to negotiate a nuclear test ban to enhance its own security in a region where nuclear proliferation was taking place and where the potential for conflict endured. Through the 1970s and 80s, the Indian government invested heavily in multilateral disarmament to ameliorate its nuclear security gap, particularly vis-à-vis China and Pakistan, pushing initiative after initiative, largely in vain. As momentum

¹¹W. Epstein, "Conference a qualified success," *The Bulletin of the Atomic Scientists*, vol. 46, 10 (1990): 45-47.

¹²Ibid, 45-47.

¹³I. W. Zartman. "Prenegotiation: Phases and Functions." *International Journal* 44.2 (1988), 243.

¹⁴United Nations General Assembly. *Comprehensive Nuclear-Test-Ban treaty*. UN Document A/RES/47/47 (United Nations: New York, 1992)

¹⁵Conference on Disarmament, *Report of the Ad Hoc Committee on a Nuclear Test Ban*. Document CD/1220 (Geneva: Conference on Disarmament, 1993)

¹⁶S. Pande, *CTBT: India and the Nuclear Test Ban Treaty* (New Delhi: Siddhi Books, 1996), 189.

gathered in 1992 toward a test ban mandate at the U.N., Indian leaders supported the cause. In an address to the U.N. General Assembly on September 28, 1990 Foreign Minister I.K. Gujral remarked on India's hope for more robust disarmament measures, 'with the end of the cold war, we feel that now is the time and a most opportune one for the international community to question the theories that justify the continuation of nuclear weapons.'¹⁷ Gujral's declaration was followed by appeals to nuclear weapon states to declare a moratorium on nuclear testing and engender a conducive environment for negotiations.¹⁸

At negotiations, Indian interlocutors were determined to negotiate a treaty that was rigid on scope or what kind of nuclear tests to ban and equitable on test verification, the two key components of the treaty. India's positions on both provisions were steadfast and precise. Indian negotiators held out for nuclear weapon states to work with other countries to negotiate a tough treaty but this desire was not forthcoming. Midway through, NPT signatories reconvened to indefinitely extend the NPT which perpetuated the division between nuclear weapon and non-nuclear weapon states. Soon after, China and France abruptly conducted several nuclear tests to shore up arsenals before a test ban agreement was finalised. These developments irked the Indian delegation and imperilled its agenda of a strong treaty that imposed symmetric constraints on all states vis-à-vis nuclear tests. But this hope was dashed. After NPT extension, nuclear weapon states returned to design a treaty that would leave some space to conduct ancillary tests while depriving other states of that right. Indian negotiators resisted this move just as the tough treaty they pushed for withered away. With no choice, India withdrew from negotiations and eventually rejected the treaty at the U.N. General Assembly.

Puzzle – India's CTBT Behaviour

India's behaviour at CTBT negotiations and eventual rejection raises a puzzle. Why did India adopt an enthusiastic stance toward the CTBT before and during negotiations only to reject the treaty? Security-wise, regional conditions had been deteriorating since India's peaceful nuclear explosion in 1974. India was aware China and Pakistan were

¹⁷U. Möller, "Explaining why India opted out," in *Banning the Bang or the Bomb?: Negotiating the Nuclear Test Ban Regime*, ed. M. Melamud et al. (Cambridge, UK: Cambridge University Press: 2014), 192.

¹⁸Pande, *CTBT: India and the Nuclear Test Ban Treaty*, 186.

collaborating on nuclear issues. Pakistan's nuclear disclosures, credible or not, exasperated Indian policymakers. Before negotiations, both countries were embroiled in a security crisis that threatened to go nuclear; the crisis precipitated nuclear discussions with the United States. Relations with Pakistan had not perceptibly changed to warrant a reversal with respect to the CTBT. Moreover, from 1993 China and India worked to remedy their perception gap that resulted in the signing of confidence-building accords.¹⁹ India's security did not demonstrably deteriorate during negotiations to merit a change of heart midway. Though Prime Minister Narasimha Rao desisted from testing a nuclear weapon before CTBT negotiations, there was no clear signal that another nuclear test was in sight; in fact, financial compulsions intervened repeatedly to thwart a nuclear test. India's rejection of CTBT also cannot be explained when viewed from a liberal institutionalist perspective. With marginal gains accrued from the treaty on nuclear test restrictions, India should have complied but what followed was rejection. Domestic politics, some scholars claim, caused India's rejection. Dinshaw Mistry argues that India's changing stand on the CTBT is attributable to 'broader domestic criticism from the press and other political parties' on disarmament and, in particular, the Entry into Force (EIF) clause which attempted to forcibly pull India into the treaty.²⁰ No doubt, CTBT negotiations, particularly after NPT extension, unleashed a torrent of domestic criticism notably from certain security commentators urging the government to be more circumspect before determining the course to take. But Mistry fails to explain why or how these domestic voices proved decisive. To explain why India rejected the CTBT, I focus on why the Ministry of External Affairs initially found CTBT negotiations in India's interest, at first, and how that position changed from mid-1995 leading to rejection.

Narrative - India and the Comprehensive Test Ban Treaty

MEA's Disarmament Diplomacy

India's multilateral nuclear diplomacy at the U.N., CD and the International Atomic Energy Agency (IAEA) has been a consistent feature of its foreign policy since the

¹⁹China and India signed bilateral confidence-building accords in 1993 and 1996, including the 1993 Sino-India Treaty of Peace and Tranquillity. See Eric. H. Arnett, *Nuclear weapons and arms control in South Asia after the test ban* (Stockholm: SIPRI Publications, 1998), 40.

²⁰Dinshaw Mistry, "Domestic-international Linkages: India and the Comprehensive Test Ban Treaty," *The Nonproliferation Review* 6, 1 (1998): 27.

1950s. India has supported several multilateral arms control and disarmament agreements to enhance its own security. This trajectory began with Prime Minister Jawaharlal Nehru's call for a 'Standstill Agreement' in 1954 between atomic powers to cover nuclear testing and publicise effects of these weapons so the international community becomes better aware of accompanying risks.²¹ Nehru's call won international attention when the U.N. Disarmament Commission submitted it for formal consideration in July 1954.²² But the move did little to stanch nuclear testing; in fact, from 1955 to 1989, the average number of tests conducted every year was 55.²³ Nonetheless, Nehru's faith in multilateralism and India's position as a materially weak state in the international system privileged diplomacy over other options.²⁴

In 1959, Indian diplomats co-sponsored a U.N. resolution that implored nuclear weapon states to refrain from underground nuclear testing.²⁵ Nehru continued to needle Washington to prioritise disarmament; with the support of non-aligned leaders, he proposed a joint U.S.-Soviet summit on disarmament despite contingent tussles between the superpowers.²⁶ When the Partial Test Ban Treaty (PTBT) was signed in 1963, Nehru hailed the treaty as a 'watershed' that would 'take us toward disarmament and peace.'²⁷ Though India held PTBT was a positive development, New Delhi clarified that the treaty 'is not the solution.'²⁸ It was, in the words of Arthur Lall, the Indian delegate to the Eighteen Nation Committee on Disarmament (ENDC), a step toward 'general and complete' disarmament.²⁹ The solution was universal nuclear disarmament.

²¹M. Jones, *After Hiroshima: The United States, Race and Nuclear Weapons in Asia, 1945–1965* (Cambridge, UK: Cambridge University Press, 2010), 202.

²²J. Goldblat and D. Cox, *Nuclear Weapon Tests: Prohibition or Limitation?* (London: Oxford University Press, 1988), 96.

²³United Nations, *Ending Nuclear Testing*, (New York: United Nations Press, 1998)

²⁴Andrew B. Kennedy, "India's Nuclear Odyssey: Implicit Umbrellas, Diplomatic Disappointments, and the Bomb," *International Security* 36, 2 (2011): 127.

²⁵The resolution 1378 (XIV) *General and Complete Disarmament* adopted on November 20, 1959 called all governments to make every effort to achieve disarmament. See United Nations General Assembly, *UN Resolutions 16th Session. A/RES/17/1722*. (New York: United Nations Press, 1960)

²⁶George Perkovich, *India's Nuclear Bomb: The Impact on Global Proliferation* (Berkeley, CA: University of California Press, 2001), 51. For more on Nehru's nuclear diplomacy, see Andrew B. Kennedy, *The International Ambitions of Mao and Nehru: National Efficacy Beliefs and the Making of Foreign Policy* (Cambridge, UK: Cambridge University Press, 2012); and Kanti Bajpai, "Nehru and Disarmament," in *Nehru Revisited*, ed. (Mumbai: Nehru Centre, 2003), 353–393.

²⁷Perkovich, *India's Nuclear Bomb*, 58.

²⁸Pande, *CTBT: India and the Nuclear Test Ban Treaty*, 175.

²⁹Bharat Karnad, *India's nuclear policy*, (New Delhi: ABC-CLIO, 2008), 60.

This objective acquired greater urgency after China tested its first nuclear device in October 1964.³⁰ Thence Indian diplomats looked for opportunities to constrain the Chinese nuclear program which eventually led to negotiations for a Nuclear Non-Proliferation Treaty (hereafter NPT).³¹ At negotiations, Indian delegate Vishnu Trivedi proposed a two-stage disarmament treaty requiring existing nuclear weapon states to cease production of nuclear weapons and progressively reduce remaining capabilities.³² But Washington and Moscow demurred; instead, the superpowers toiled to widen the gap between nuclear and non-nuclear states by proposing different obligations.³³ Trivedi fiercely opposed a U.S. plan that prohibited non-nuclear states from conducting peaceful nuclear explosions on the grounds that all countries should have the right to ‘retain the same peaceful explosion rights as the nuclear weapon states would have.’³⁴ All through negotiations, Trivedi struggled to bridge the nuclear gap between India and the nuclear weapon states.

All of India’s interests - halting production of nuclear weapon systems, obtaining security commitments from superpowers, securing disarmament commitments for nuclear weapon states and possessing the right to conduct peaceful nuclear explosions were given short shrift at NPT negotiations.³⁵ Unsurprisingly, New Delhi refused to sign the NPT.³⁶ NPT, signed in April 1968, was a pronounced setback for India; instead of constraining nuclear weapon states, the treaty hamstrung non-nuclear weapon states and instead of disarming China, the treaty legitimised its nuclear status.³⁷ The only concession won by non-nuclear weapon states was the right to conduct peaceful nuclear explosions. Short of producing nuclear weapons, disarmament proved

³⁰“1964 First Chinese Nuclear Test.” CTBTO, 2010, Accessed November 1, 2015.

<https://www.ctbto.org/specials/testing-times/16-october-1964-first-chinese-nuclear-test>.

³¹Kennedy, *India's Nuclear Odyssey*, 131.

³²Disarmament Commission, *Statement of V.C Trivedi, Indian Representative to the Disarmament Commission*, UN Document PV/75 (New York: UN Disarmament Commission, 1965)

³³Ibid.

³⁴Both the Soviet Union and United States amended Article IV on ‘peaceful uses of energy,’ added a new Article V on ‘peaceful nuclear explosions.’ See Perkovich, *India's Nuclear Bomb*, 127.

³⁵Ibid.

³⁶On June 12 1968, the UN General Assembly Resolution endorsed NPT with UNGA Resolution. The vote was 95 to 4 with 21 abstentions. The four no votes were Albania, Cuba, Tanzania, and Zambia. See United Nations General Assembly, *UN Resolution 2373 (XXII)* (New York: United Nations, 1968)

³⁷Perkovich, *India's Nuclear Bomb*, 78.

the most amenable policy option, given the lack of external security guarantees, to enhance India's security.³⁸

Nonetheless, work on the Indian nuclear program continued leading to a peaceful nuclear explosion in 1974. Though salutary for India's nuclear program, the explosion hastened industrialised countries to tighten controls around nuclear supplies through the Zangger Committee and Nuclear Suppliers Group (NSG) established in 1975.³⁹ Through the 1960s and 70s, however, the Indian government chose not to develop a nuclear weapon for largely financial reasons.⁴⁰ Once this decision was taken, the government had only one policy option to improve its nuclear security – multilateral disarmament.⁴¹ In 1978, Indian delegates pushed for a comprehensive test ban agreement at the U.N. General Assembly's Special Session on Disarmament (SSOD). Thereafter at the Conference on Disarmament (hereafter CD) advocated for total disarmament as a way of constraining nuclear program development in nuclear weapon states.⁴² At CD discussions in 1979, India's delegate Chinmaya Gharekhan outlined a possible way toward test ban negotiations by calling nuclear weapon states to 'observe a moratorium on nuclear testing' until a comprehensive test ban agreement was concluded.⁴³ New Delhi hoped nuclear weapon states would negotiate a comprehensive test ban agreement but there was no interest from the other side.⁴⁴

In the 1980s, the Ministry of External Affairs (hereafter MEA) persisted with the disarmament focus even as regional security conditions deteriorated against two distinct threats, Pakistan and China. At the CD, Indian delegates advocated for total disarmament, inclusive of a ban on all nuclear weapon tests. In a speech to the U.N.'s Second Session on Disarmament on June 11, 1982 Foreign Minister P.V. Narasimha Rao asserted, "how can this session follow up the declaration of the first session? I venture to propose the following concrete programme of action: immediate suspension

³⁸A.G. Noorani claims that India received implicit assurances from the United States to protect "India's territorial integrity" against a Chinese nuclear attack. See A.G. Noorani, "India's Quest for a Nuclear Guarantee," *Asian Survey*, Vol. 7, 7 (1967): 498.

³⁹Tadeusz Strulak, "The Nuclear Suppliers Group," *The Non-proliferation Review* 1, 1 (1993): 2.

⁴⁰Perkovich, *India's Nuclear Bomb*, 93.

⁴¹R. Rajagopalan, "Multilateralism in India's Nuclear Policy: A Questionable Default Option," in *The Oxford Handbook of Indian Foreign Policy* ed. David Malone et al, (New Delhi: Oxford University Press, 2015), 651.

⁴²Conference on Disarmament, *Document CD/PV/47* (Geneva: Conference on Disarmament, 1979)

⁴³*Ibid.*

⁴⁴Pande, *CTBT: India and the Nuclear Test Ban Treaty*, 181.

of all nuclear weapon tests.”⁴⁵ Concurrently, the Indian government made overtures to both Pakistan and China, communicating a desire to better relations.⁴⁶

At the U.N., the MEA intensified their efforts for disarmament inclusive of a ban of all nuclear tests.⁴⁷ In 1986, India’s CD representative Eric Gonsalves engaged opponents on the demerits of a possible test ban treaty that centred on two concerns – security and compliance. On security, nuclear weapon states felt testing was necessary to deter adversaries and ensure nuclear arsenals are battle tested and ready. In terms of compliance, nuclear weapon states were less than confident of existing verification arrangements particularly in the event of a potential evasion. The Indian response to these fears was for member states to make a ‘political commitment to a comprehensive nuclear weapon ban’ that they hoped will serve as an ‘effective deterrent’ against potential violators.⁴⁸ India suggested that on-site inspections supplement ‘the national technical means to verify compliance to a test ban’ that was also offered under Indira Gandhi’s 1984 Six-Nation Disarmament Initiative.⁴⁹ Indian diplomats worked to find different ways to address qualms of other states on a test ban agreement but, despite these efforts, nuclear weapon states did not move on disarmament.

Their disdain also felled the 1988 Rajiv Gandhi Disarmament Action Plan. After becoming Prime Minister, Rajiv Gandhi championed disarmament to mitigate regional nuclear competition and, if possible, as a way out of building nuclear weapons.⁵⁰ Gandhi proposed a three-stage plan to eliminate nuclear weapons worldwide by 2010 that urged non-nuclear weapon states, including India, to shun nuclear weapons.⁵¹ The plan included a suggestion for countries to work toward a comprehensive nuclear test ban. Former Foreign Secretary J.N. Dixit later argued that the Rajiv Gandhi Action Plan was sincere and forthright in intent, ‘the calculation was that if we get the endorsement

⁴⁵Government of India, *India and Disarmament: An Anthology of Selected Writings and Speeches* (New Delhi: Ministry of External Affairs, 1998).

⁴⁶Pande, *CTBT: India and the Nuclear Test Ban Treaty*, 144.

⁴⁷Indian delegates at the Second Special Session on Disarmament in July 1982 laid out a programme for U.N-led disarmament characterised by a freeze on production and testing of nuclear weapons and fissile materials. See Priyanjali Malik, *India’s Nuclear Debate: Exceptionalism and the Bomb* (New Delhi: Routledge, 2014), 82.

⁴⁸Conference on Disarmament, *Document CD/PV/342* (Geneva: Conference on Disarmament, 1986)

⁴⁹*Ibid.*

⁵⁰Rajagopalan, *Multilateralism in India’s Nuclear Policy*, 655.

⁵¹UN General Assembly, *Speech by Rajiv Gandhi, Prime Minister of India. A World Free of Nuclear Weapons: An Action Plan* (New York: United Nations General Assembly, 1988)

of the Rajiv Gandhi Action Plan from the nuclear powers, then India will not have to purposively move on its nuclear weapon programme.⁵² However, Dixit adds, ‘we also wanted to be in forefront of the movement towards the elimination of nuclear weapons.’⁵³ But the initiative was snubbed by nuclear weapon states.

The need for a disarmament agreement heightened in 1990 as tensions flared between India and Pakistan over militant violence in Kashmir. Soon the bellicose rhetoric tangled with Pakistan’s alleged nuclear capabilities, particularly the production of highly enriched uranium.⁵⁴ Prominent security critics pressured the V.P. Singh-led Indian government to clarify its position on nuclear weapons and their applicability in a precarious regional situation.⁵⁵ The Indian government, however, sustained its nuclear ambiguity, calling for disarmament while laterally developing nuclear weapons.⁵⁶ As serious as these events were for India, the government did not test nuclear weapons again largely due to financial constraints and threats of sanctions.⁵⁷ Pakistan’s nuclear progress and potential, however, had to be domestically accounted for with the crisis. Clamour from the press and other security experts on India’s nuclear policy emerged. These voices also questioned the utility of India’s disarmament diplomacy at the U.N. and other multilateral fora.⁵⁸ Nonetheless, Indian diplomats held firm on disarmament given limited policy alternatives to protect India’s security and improve its nuclear position. MEA was clearly aware that, stopping short of developing a clear nuclear weapons deterrent, India’s best hope to reduce the existing nuclear gap between nuclear weapon states and other states was disarmament.⁵⁹

In 1991, Narasimha Rao became the Indian Prime Minister. Rao proved stubborn on nuclear testing which meant that India’s disarmament focus would sustain. To lessen palpable sub-continental tensions, U.S. and India held a bilateral dialogue on

⁵²Kennedy, *India’s Nuclear Odyssey*, 135.

⁵³*Ibid.*

⁵⁴Pande, CTBT: *India and the Nuclear Test Ban Treaty*, 98.

⁵⁵Critics included Rajiv Gandhi who called for some ‘very strong steps against Kashmir’ to defuse tensions. See David Housego, “India Urged to Attack Camps in Pakistan over Strife in Kashmir,” *The Financial Times*, April 9, 1990.

⁵⁶Perkovich, *India’s Nuclear Bomb*, 296.

⁵⁷P.R. Chari, *Indo-Pak Nuclear Standoff, the Role of the United States* (New Delhi: Manohar Publishers, 1995), 210.

⁵⁸For a solid overview of Pakistan’s nuclear disclosures, see Devin. T. Hagerty, *The Consequences of Nuclear Proliferation: Lessons from South Asia* (Boston: MIT Press, 1998)

⁵⁹Muchkund Dubey, Former Foreign Secretary, Interview by author. April 21, 2016.

non-proliferation in lieu of Washington's five-nation conference to create a regional nuclear weapons free zone.⁶⁰ To advance non-proliferation, several ideas were mooted including proposals that proscribed countries from testing nuclear weapons which Indian diplomats were receptive to.⁶¹ Realising India would not sign the NPT, Washington urged New Delhi to improve the regional nuclear balance by combating proliferation, eschewing nuclear tests and diplomatically engaging on regional nuclear issues.⁶² Indian Foreign Secretary J.N. Dixit expressed a willingness to convene relevant regional nuclear states, China, Pakistan, Russia and Pakistan to explore these ideas further.⁶³ But talks were strained by increased signs of activity at Pokhran where the nuclear establishment was in the midst of testing *Prithvi*, a nuclear weapon. Rao, however, remained half-hearted on tests and dithered despite pressure from scientists.⁶⁴

While Washington and New Delhi discussed nuclear issues, developments at the U.N. moved toward negotiations on a comprehensive nuclear test ban agreement which incoming U.S. President Bill Clinton supported. By early 1992, nuclear weapon states agreed to refrain from testing, including the United States.⁶⁵ With the reprieve, the U.N. moved a resolution for a Comprehensive Test Ban Agreement that was then adopted on December 9 1992. The resolution was endorsed by the outgoing V.P. Singh government. India did not rule out participating in negotiations for a CTBT and neither did the Narasimha Rao government withhold consent should the treaty meet its interests.⁶⁶ Foreign Secretary J.N. Dixit believed India should be open to a test ban agreement even if it precluded India from testing a nuclear weapon arguing 'that option we were willing to foreclose as we had the basic technology.'⁶⁷ Dixit's view was the result of an informal expert committee that he organised to review and analyse India's nuclear position. The committee concluded that testing was not entirely necessary to

⁶⁰Jayantha Dhanapala, *Regional approaches to disarmament: security and stability* (New York: Dartmouth Publishing Company, 1993), 93.

⁶¹Perkovich, *India's Nuclear Bomb*, 329.

⁶²*Ibid*, 324.

⁶³*Ibid*.

⁶⁴Some nuclear scientists were unhappy over the government's nuclear policy. In interviews, they spoke of the "fear psychosis" in the Prime Minister's Office due to American pressure that stalled tests. See Arnett, *Nuclear weapons and arms control in South Asia*, 24.

⁶⁵Both Soviet Union and France declared temporary suspensions on testing in late 1991 that was followed by the U.S in April 1992. Bill Clinton extended the temporary moratorium paving the way toward a U.N. resolution on CTBT. See Zartman, *Pre-negotiation: Phases and Functions*, 13.

⁶⁶Pande, *CTBT: India and the Nuclear Test Ban Treaty*, 144.

⁶⁷Kennedy, *India's Nuclear Odyssey*, 146.

develop a nuclear weapon.⁶⁸ The report, in effect, admitted India had nuclear capabilities that provided some deterrence against China and Pakistan.⁶⁹ Indian diplomats understood that negotiations on a test ban agreement could not reverse existing nuclear capabilities and India could still develop a weapon without nuclear testing which made the MEA more amenable to negotiations. Nonetheless, Dixit remained wary of a treaty that compromised India's security interests or one that did not meaningfully reduce the nuclear gap between India and nuclear weapon states.⁷⁰ Concluding a meeting with U.S. Ambassador to the U.N. Madeleine Albright before negotiations, Dixit remarked that if a CTBT was drafted 'within a framework of non-discriminatory provisions, you might be able to prevent India from overtly becoming a nuclear weapon power.'⁷¹ Put differently, India expected uniform restrictions on all member states in return for accession. On this basis, the MEA also expressed an interest in a ban on fissile material production for explosive purposes to safeguard India's nuclear option while permitting the reprocessing of plutonium for civilian purposes under international safeguards.⁷² India approached negotiations confident of making progress on a comprehensive nuclear test ban.

Negotiations Begin

Indian negotiators arrived in Geneva hoping to negotiate a firm treaty that banned all nuclear tests. For India, banning all nuclear tests would constrain nuclear weapon states from augmenting their nuclear arsenals through various means including laboratory and sub-critical tests. Indian diplomats were also cognisant of the fact that India had latent nuclear capabilities which gave them the ability to develop nuclear weapons without testing.

CTBT Negotiations commenced in January 1994.⁷³ Representatives from thirty-eight countries, part of the CD, formed the core negotiating group.⁷⁴ At first, the governing mandate 'to negotiate intensively a universal and multilaterally and

⁶⁸Interview with J.N. Dixit cited in Ibid, 147.

⁶⁹Ibid, 146-151.

⁷⁰Ibid.

⁷¹Ibid.

⁷²Ibid.

⁷³Conference on Disarmament, *CD document CD/PV.666*. Geneva: Conference on Disarmament, 1994.

⁷⁴Johnson, *Unfinished Business*, 57-60.

effectively verifiable comprehensive test ban treaty' was adopted.⁷⁵ This directive meant that the treaty had to be clear in scope. In terms of activities, options split between banning all activities related to nuclear tests that most non-aligned states wanted or leave space for certain activities which the nuclear weapon states preferred.⁷⁶ And second, the mandate called for a robust verification regime that would go beyond the national technical means (NTM) verification system which the PTBT and the Strategic Arms Reduction Treaty (START) had.⁷⁷ These issues were to be negotiated in two working groups - Working Group 1 that would cover verification and monitoring and Working Group 2 that would focus on legal and institutional issues, including scope of the treaty, basic obligations, implementation and entry into force.⁷⁸

India's opening position, presented by lead negotiator Satish Chandra, differed from the positions of nuclear weapon states that varied from a comprehensive agreement covering all nuclear explosions (U.S.) to leaving exemptions for tests in certain environments (Russia, U.K., France and China). On scope, India wanted a clear comprehensive treaty without 'exceptions for carrying out nuclear tests *under any circumstances*.'⁷⁹ Unsurprisingly, the clarity was the legacy of sustained lobbying for such an agreement. The intent was clear – begin to close the nuclear gap between the nuclear and non-nuclear weapon states by eschewing testing and upgrading of nuclear facilities validated by similar conditions and rules. A former Indian disarmament negotiator noted of India's approach, 'our view going in was that the treaty needed to be comprehensive, covering horizontal and vertical proliferation and non-discriminatory in that it would not extend, in perpetuity, the position of nuclear weapon states. We had a clear priority of preventing nuclear war and prospects of a nuclear winter. But the focus was on disarmament.'⁸⁰ Chandra underlined that India's position grew from a long-standing commitment to disarmament within which 'CTBT has a very important place.'⁸¹ As negotiations began, the Indian delegation's intent and rhetoric was forthright.

⁷⁵Ibid.

⁷⁶Ibid.

⁷⁷NTM refers to monitoring techniques and systems used to gather information useful in verifying adherence to international treaties. See P. R. Viotti, *Arms Control and Global Security: A Document Guide: A Document Guide* (New York: ABC-CLIO, 2010), 486.

⁷⁸Ibid.

⁷⁹Pande, *CTBT: India and the Nuclear Test Ban Treaty*, 104.

⁸⁰Former Indian Disarmament Negotiator, Interview with author, December 11, 2015.

⁸¹Pande, *CTBT: India and the Nuclear Test Ban Treaty*, 101.

India negotiators pushed the CTBT as the first step to universal disarmament but pushback came from nuclear weapon states that wanted some room to manage nuclear arsenals.⁸² Nuclear weapon states sought space to undertake ‘activities not prohibited’ that included safety tests, inertial confinement fusion, low-yield hydrodynamic and hydro-nuclear tests, simulations and peaceful nuclear explosions.⁸³ But among nuclear weapon states, divisions existed on what tests to exempt and include.⁸⁴ France, Russia, U.K. and the U.S. appeared to converge around an open understanding of nuclear explosions, hoping to leave it ambiguous enough to allow for these ‘other activities.’⁸⁵ But this shaky consensus withered as other issues got discussed.

The Indian delegation submitted a detailed position on verification, the second key component of the treaty. India’s position reiterated its earlier principle expecting symmetry on all states or a verification system that applied to all states regardless of nuclear capabilities. Discussions on verification were initially hampered by conflicting positions on the treaty’s scope to determine what kind of tests required verification.⁸⁶ Soon an agreement was reached among nuclear weapon states for an international monitoring system (IMS) that would monitor tests conducted across the world. Four of the five nuclear weapon states, U.S., U.K., France and Russia settled on an IMS operated through four technologies - seismic, hydro-acoustic, infrasound and radionuclide.⁸⁷ India’s lead negotiator Chandra communicated India’s intent to adhere to the four technologies being considered for the IMS.⁸⁸ Chandra also came out in favour of special monitoring arrangements for ‘established nuclear weapon test sites’ that could not be verified using conventional methods while being open to on-site inspections that it felt was ‘necessary for deterrence purposes.’⁸⁹

⁸²Arundhati Ghose, “The Comprehensive Nuclear Test Ban Treaty: Intricate Moments during the Negotiations,” *Indian Foreign Affairs Journal*, 8, 2 (2013): 213.

⁸³Johnson, *Unfinished Business*, 58.

⁸⁴In the P-5, states had asymmetrical technological capabilities that resulted in competition over what to include and exclude from the treaty. Ibid, 58.

⁸⁵China held firm that CTBT should only cover nuclear weapon test explosions and not cover other explosions. See Z. Yunhua, *China and the CTBT Negotiations* (Stanford, CA: Stanford University Press, 1998)

⁸⁶Johnson, *Unfinished Business*, 64.

⁸⁷The core of IMS would be the seismic network stations. Ibid.

⁸⁸Conference on Disarmament, *Document CD/PV/680. 2* (Geneva: Conference on Disarmament, 1994)

⁸⁹Conference on Disarmament, *Document CD/PV/690. 1* (Geneva: Conference on Disarmament, 1994)

Negotiations resumed for the second year in January 1995. There was a general sense among G-21 countries that an opportunity was lost by not completing a draft treaty before the 1995 NPT Review Conference. CD chairman Marin Bosch attempted to table a draft treaty after the first session for approval but opposition from China, France and the U.K buried his initiative.⁹⁰ Nonetheless, most delegates were pleased with the progress made on scope, having narrowed down a threshold on nuclear tests, and verification. Australia's proposal on scope emerged as most amenable given resistance on what tests member states wanted banned.⁹¹ The Australian proposal barred 'any nuclear weapon test explosion or any other nuclear explosion and any such nuclear explosion at any place under its jurisdiction or control.'⁹² However, the proposal was not clear on other kinds of nuclear tests conducted internally, an issue that would return for further discussions. On verification, negotiators agreed on the details of the International Monitoring System (IMS).⁹³ On-site inspections proved more contentious; predictably, much debate centred on the decision-making around the triggering of an inspection.⁹⁴

Indian negotiators interjected to flag G-21 concerns on scope and verification. Chandra expressed concerns on exceptions suggested by nuclear weapon states vis-à-vis nuclear tests even as the Australian scope formulation found support in the CD.⁹⁵ Chandra reiterated the G-21's hope that the ban 'be comprehensive and no tests should be conducted under any pretext.'⁹⁶ Indian reservations also extended to on-site inspections, perceiving proposed rules as intrusive and a ploy to ensnare non-NPT signatories through the CTBT.⁹⁷ Chandra tried to refocus the verification debate to be relevant for all countries, not just countries that had nuclear capabilities. India's position on inspections gradually tightened to one where inspections would 'would have to be

⁹⁰Johnson, *Unfinished Business*, 72.

⁹¹Conference on Disarmament, *Australian Resource Paper on Draft Treaty Elements*. CD Document CD/NTB/WP/49 (Geneva: Conference on Disarmament, 1994).

⁹²Ibid.

⁹³N.W. Gallagher, *The Politics of Verification* (Baltimore: The Johns Hopkins University Press, 1999), 76.

⁹⁴This meant dealing with three questions – who has the right to trigger a request, only CTBTO countries or all; what kind of evidence would be used when making such a request and how should it be gathered; and how will this information and data be evaluated. See Johnson, *Unfinished Business*, 161.

⁹⁵Ibid, 166.

⁹⁶Conference on Disarmament, *Document CD/PV/705* (Geneva: Conference on Disarmament, 1995)

⁹⁷Ghose, *The Comprehensive Nuclear Test Ban Treaty*, 213.

approved after due consideration and in an appropriate time framework.⁹⁸ With these developments, the CD adjourned negotiations to give way to NPT Review Conference in May 1995. Besides the NPT Review Conference, general elections in key countries, including France and India, loomed large over negotiations.⁹⁹ NPT Conference in mind, negotiations strove to produce a revised draft treaty text by April 30.¹⁰⁰ But the deadline weighed on discussions with countries chary of accepting precise commitments before NPT renewal.¹⁰¹ For years, the NPT's relevance and credibility rested on progress made on a test ban agreement but now the former's relevance burdened the prospects of the latter.

NPT Extension 1995

175 countries convened for the Fifth NPT Review and Extension Conference in April 1995 in New York. The Fourth NPT Conference in 1990 failed as parties could not agree on a test ban pledge; CTBT was a key priority again for NPT signatories.¹⁰² On NPT extension, a range of opinions gathered. Four nuclear weapon states, U.S., U.K., France and Russia wanted the treaty extended indefinitely to entrench their nuclear position.¹⁰³ Other states wanted a single fixed period of either 10 or 25 years as leverage to pursue disarmament.¹⁰⁴ But states chose against a specific time period given how CTBT negotiations had come along in Geneva.¹⁰⁵ Paragraph 4 (a) of the NPT was then updated with reference to the CTBT, expecting it to come into force 'no later than 1996.'¹⁰⁶ In return for a positive vote from other member states, nuclear weapon states led by the U.S. agreed in a formal statement to pursue 'systematic and progressive

⁹⁸Conference on Disarmament, *Document CD/PV/719. 21* (Geneva: Conference on Disarmament, 1995)

⁹⁹During this period, China continued nuclear testing while trying to negotiate space within the treaty for that purpose. See Johnson, *Unfinished Business*, 76-78.

¹⁰⁰*Ibid.*

¹⁰¹*Ibid.*

¹⁰²Johnson, *Unfinished Business*, 73-74.

¹⁰³Rebecca Johnson, "Indefinite Extension of the Non-Proliferation Treaty: Risks and Reckonings," ACRONYM Report, 7 (1995): 16 and 38-40.

¹⁰⁴*Ibid.*

¹⁰⁵Nonetheless, suspicions between nuclear and non-nuclear weapon states ran through the conference. Negotiations in Geneva led many developing countries to believe the P-5 would strew in exemptions in the treaty to maintain their nuclear advantage and continue testing. See K. Subrahmanyam, "Nuclear Powers not keen on Fool-proof treaty," *The Times of India*, April 6, 1995, 13.

¹⁰⁶Johnson, *Indefinite Extension of the Non-Proliferation Treaty*, 16.

efforts to reduce nuclear weapons globally, with the ultimate goal of eliminating those weapons.¹⁰⁷

On May 11 1995, the NPT was extended indefinitely.¹⁰⁸ More than ever, there was a palpable sense after the conference that a CTBT was imminent.¹⁰⁹ But a CTBT in near sight drove China and France to shore up their nuclear arsenals. On May 15, China exploded a nuclear device and on June 13 France declared it would conduct eight nuclear tests between September 1995 and May 1996.¹¹⁰ Both actions were widely condemned.¹¹¹ Both actions also proved inconsistent with NPT obligations, particularly the need to show 'utmost restraint' on nuclear testing while the CTBT was being negotiated.¹¹² The indefinite extension, the Chinese test and the resumption of French tests also soured G-21 attitudes, particularly India, over nuclear weapon states, blighting their desire to negotiate an unyielding test ban agreement.¹¹³

NPT extension unsettled India.¹¹⁴ CTBT negotiations had not produced binding commitments on scope although discussions narrowed down an acceptable threshold above which nuclear tests were barred. The stiff resistance of nuclear weapon states against tabling a rough treaty draft in April 1995 intensified suspicions among G-21 countries that the CTBT would not be comprehensive.¹¹⁵ Disregarding Article VI of NPT, CTBT negotiations had, thus far, largely ignored disarmament.¹¹⁶ These fears were validated by Chinese and French nuclear tests soon after NPT extension. All these developments rankled the Indian delegation. The official MEA response underlined the hypocrisy of the nuclear tests soon after NPT extension, 'we are dismayed by the recent nuclear tests carried out by some nuclear weapon states. That these steps are being taken by states which are parties to the NPT, soon after its indefinite extension, highlights the

¹⁰⁷Leonard Weiss, "India and the NPT," *Strategic Analysis* 34, 2 (2010): 261.

¹⁰⁸Johnson, *Unfinished Business*, 73-74.

¹⁰⁹*Ibid.*

¹¹⁰To justify tests, France argued it needed to update aging nuclear weapons before transitioning to computer simulations. See Johnson, *Unfinished Business*, 82.

¹¹¹For reactions in the CD, see Conference on Disarmament, *Final Record of the Seven Hundred and Seventeenth Plenary Meeting*. CD document CD/PV.717 (Geneva: Conference on Disarmament, 1995)

¹¹²See UN Disarmament Commission, *Disarmament Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, Final Document*, UN document NPT/CONF.1995/32 (Geneva: United Nations Disarmament Commission, 1995)

¹¹³Johnson, *Unfinished Business*, 119.

¹¹⁴Arnett, *Nuclear Weapons and Arms Control in South Asia after the Test Ban*, 25.

¹¹⁵Johnson, *Unfinished business*, 74.

¹¹⁶K. Subrahmanyam, "Legitimising Nuclear Weapons: A Crime against Humanity," *The Times of India*, February 28, 1995, 7.

inherent deficits of the Treaty. These developments represent a serious setback to the on-going negotiations for a Comprehensive Nuclear Test-Ban Treaty and undermine its successful conclusion.¹¹⁷ Security-wise, NPT extension was a setback for non-nuclear weapon states, like India, threatened by nuclear strike or nuclear proliferation. India was alarmed by the latter fear with nuclear ties burgeoning between China and Pakistan and assistance Pakistan received from countries in the Middle East.¹¹⁸ Without a robust security guarantee for non-NPT signatories like India, the only option left vis-à-vis deterrence was ‘the acquisition of a nuclear weapons capability.’¹¹⁹ But there was no clear signal that the government was preparing to test which left one option - return to CTBT negotiations and underscore the merits of disarmament to produce a tough test ban.

Changing Tack

Indian negotiators returned to Geneva in June 1995 with an intent to obtain clear commitments from nuclear weapon states on CTBT’s scope and disarmament *writ large*. Arundhati Ghose replaced Satish Chandra as India’s chief negotiator. Ghose took charge by getting a sense of the negotiating environment from her G-21 counterparts. She was forewarned of the ‘triumphalism in the P-5’ after they secured the extension of the NPT without making any clear commitments, especially on disarmament.¹²⁰ Ghose came to appreciate the pressures accompanying NPT extension and its residual influence on the CTBT that ‘was being pushed’ in a similar vein without robust debate on the larger issue - disarmament.¹²¹ Her perception was confirmed as negotiations resumed; Ghose intuited that continuing this tack would leave India in a ‘situation of having to accept a draft treaty which was against our basic interests.’¹²² In other words, accepting a treaty that did not impose symmetric commitments on all CD member states and did not pledge to advance disarmament.

¹¹⁷Statement made by the Official Spokesman of the Ministry of External Affairs: New Delhi, 11 September 1995, cited in Arundhati Ghose, “Negotiating the CTBT: India’s security concerns and nuclear disarmament,” *Journal of International Affairs* 51, 1 (1997): 248.

¹¹⁸K. Subrahmanyam, “II-- Pak Ploy to Hide Nuclear Reality,” *The Times of India*, Jul 28, 1984, 4.

¹¹⁹K. Subrahmanyam, “Extending NPT: Negative Security Assurances,” *The Times of India*, March 29, 1995, 11.

¹²⁰Ghose, *The Comprehensive Nuclear Test Ban Treaty*, 213.

¹²¹*Ibid.*

¹²²Ghose, *Negotiating the CTBT*, 239.

Ghose quickly sent a diplomatic missive to New Delhi to get political clarity on India's CTBT position and instructions on how to proceed should nuclear weapon states devise a treaty that advanced their interests alone.¹²³ Sustaining the same tack, Ghose reckoned 'would close our nuclear option' and not redress the nuclear gap between India and nuclear weapon states since negotiations were moving toward cementing NPT's division between nuclear weapon and non-nuclear weapon states. Ghose's instinct was backed by India's Department of Atomic Energy (DAE) that noted 'if India were to accept this treaty, as it was emerging, it would indeed close our options.'¹²⁴ This position was articulated to Ghose by A.N. Prasad, Bhabha Atomic Research Centre (BARC) Director, as negotiations continued in 1995. Prasad was incensed by Atomic Energy Commission (AEC) Director Chidambaram's view that India could rely on high level computational and simulation capabilities that purportedly made nuclear testing redundant.¹²⁵ Prasad was determined to ensure India and BARC had space to test a nuclear weapon openly even as political leaders resisted the call.¹²⁶ Diplomatically, however, the focal issue was disarmament and securing a promise to work toward it. Indian Foreign Secretary Salman Haidar met Ghose the following month in Vienna and mentioned "unless we get some kind of equaliser through on nuclear disarmament, in the body of the draft, it was not going to be possible for us to accept the text".¹²⁷ The point was clear – secure a firm commitment from nuclear weapon states to advance disarmament and deter testing or repudiate negotiations.

To move India's agenda forward, Ghose submitted a proposal to expand the scope of the treaty to cover bans on hydro-nuclear and laboratory tests.¹²⁸ Her key concern was that the 'treaty draft only banned explosive testing. It did not ban any other form of testing using methods like computer simulation, sub-critical, hydrodynamic testing, etc.'¹²⁹ Given how negotiations had transpired, nuclear weapon states would have secured space to conduct such tests under a threshold. To address this gap, the Indian proposal consisted of two provisions:

¹²³Ghose, *The Comprehensive Nuclear Test Ban Treaty*, 213.

¹²⁴Pande, *CTBT: India and the Nuclear Test Ban Treaty*, 200.

¹²⁵Bharat Karnad argues that the simulation option contributed to PM Narasimha Rao's decision to rule out a nuclear test in 1995. See Karnad, *India's nuclear policy*, 68.

¹²⁶*Ibid.*

¹²⁷Pande, *CTBT: India and the Nuclear Test Ban Treaty*, 142.

¹²⁸*Ibid.*

¹²⁹Ghose, *The Comprehensive Nuclear Test Ban Treaty*, 213.

- 1) Each State Party undertakes to prohibit and to prevent, and not to carry out, any nuclear weapon explosion, or any other nuclear test explosion, or any release of nuclear energy caused by the assembly or compression of fissile or fusion material by chemical explosive or other means, at any place under or beyond its jurisdiction or control.
- 2) Each State Party undertakes, furthermore, to refrain from causing, encouraging, assisting or in any way participating in the carrying out of any nuclear weapon test explosion or any other nuclear explosion.

Before presenting the proposal, India received broad consent from G-21 states though some states like Iran did express concern over defining nuclear explosions that would complicate verification.¹³⁰ But Ghose's proposal was largely ignored by nuclear weapon states and some European countries that preferred to finalise the 'zero-yield' threshold advanced by the Australian scope proposal.¹³¹

G-21 states, however, concentrated opposition on threshold by demanding a clear statement from the conference against nuclear testing. Delivering their statement was Ghose who asserted that 'conducting or intending to conduct nuclear-weapon tests over and above the substantial number of tests already conducted raises serious questions about the nuclear-weapon states real intentions with regard to continued development of nuclear weapons. Recent reports about discussions among the nuclear-weapon states on a threshold for a test ban have also given rise to deep concern.'¹³² CTBT, Ghose added, 'should be an instrument against both horizontal and vertical nuclear proliferation and should effectively contribute to nuclear disarmament.'¹³³ In terms of scope, the statement urged CD member states to 'ensure that negotiations are held for a clear understanding' to produce a CTBT.¹³⁴ But nuclear weapon states again did not take Ghose's intervention seriously.¹³⁵

¹³⁰Pande, *CTBT: India and the Nuclear Test Ban Treaty*, 193.

¹³¹Johnson, *Unfinished Business*, 83.

¹³²Conference on Disarmament, *Final Record of the Seven Hundred and Tenth Plenary Meeting*. CD Document CD/PV.710 (Geneva: Conference on Disarmament, 1995)

¹³³*Ibid.*

¹³⁴*Ibid.*

¹³⁵Johnson, *Unfinished business*, 82.

In August 1995, nuclear weapon states finalised an agreement amongst themselves on scope. The impetus came from U.S. and France that discussed possibility of a scope that banned all tests.¹³⁶ Washington pushed Paris to relent on their demand to have some thresholds by giving the French access to their simulation facilities that would obviate the need to conduct tests of any sort.¹³⁷ The pressure worked. On August 11, U.S. and France committed to ‘a true zero yield ban’ on all nuclear explosions that was backed by the U.K despite reservations.¹³⁸ Angered by American and French concessions, Moscow evaded pressure on a decision until April 1996 when Boris Yeltsin agreed to the Australian scope.¹³⁹

India’s position on the treaty tightened further. R. Chidambaram, Chairman of India’s Atomic Energy Commission (AEC), called for specific amendments to the treaty in the wake of nuclear tests carried out by China and France that he feared ‘would have repercussions on the treaty.’¹⁴⁰ For Chidambaram, CTBT’s relevance would be assured ‘only if it was linked firmly to the total elimination of nuclear weapons within a well-defined time framework, within the next ten years.’¹⁴¹ External Affairs Minister Pranab Mukherjee reinforced this plea at the U.N., ‘CTBT must contain a binding commitment on the international community, especially nuclear weapon states, to take further measures within an agreed time frame towards the creation of a nuclear weapon free world. In our view, the CTBT must be an integral step in the process of nuclear disarmament.’¹⁴² Stopping short of opposing the treaty, Mukherjee warned that ‘it must reflect the overwhelming world view favouring elimination of nuclear weapons within a time frame.’¹⁴³

Prime Minister Rao also affirmed India’s desire for ‘real disarmament in a world that appeared to be drifting into complacency on the question of disarmament’ in his

¹³⁶ A. Arnett, “The Comprehensive Nuclear Test Ban”, in *SIPRI Yearbook 1995: Armaments, Disarmament and International Security*, (Stockholm: SIPRI Publications, 1995), 699–702.

¹³⁷ Ibid.

¹³⁸ Conference on Disarmament, *Statement by President William J. Clinton to the Conference on Disarmament concerning United States nuclear testing*, CD document CD/1340 (Geneva: Conference on Disarmament, 1995)

¹³⁹ Conference on Disarmament, *Statement by Grigori Berdennikov (Russia). Final Record of the Seven Hundred and Thirty-fourth Plenary Meeting*, CD document CD/PV.734 (Geneva, Conference on Disarmament, 1995)

¹⁴⁰ Malik, *India's nuclear debate*, 179.

¹⁴¹ “N-tests highlight defects in NPT,” *The Times of India*, September 20, 1995, 6.

¹⁴² Pande, *CTBT: India and the Nuclear Test Ban Treaty*, 201.

¹⁴³ A. Katyal, “U.S. not forcing India to sign CTBT,” *The Times of India*, December 19, 1995, 8.

address to the same forum a few days later.¹⁴⁴ Before arriving in New York, Rao met fellow non-aligned leaders at the Non-aligned Movement (NAM) Summit where he urged countries to ‘strive for a nuclear weapon-free world.’¹⁴⁵ Observers claimed Rao grew ambivalent of a treaty that he feared ‘would hamper India’s autonomy in global affairs’ relative to other major powers that were consolidating their power position through nuclear policy.¹⁴⁶ Through disarmament, India was hoping to constrict nuclear weapon states from nuclear program development but given negotiations, this objective appeared seemed bleak, at best.¹⁴⁷

Negotiations Resume 1996

On January 23 1996, CTBT negotiations resumed for the third year. Jaap Ramaker, the incoming chair, set out his primary goal - to have negotiations concluded by June 1996 ‘to allow the fiftieth session of the General Assembly consider the text.’¹⁴⁸ Given the breakthrough on scope among nuclear weapon states, three issues acquired prominence - finalising the verification regime; adopting language on nuclear disarmament; and deciding how the treaty would enter into force. But tensions lingered between nuclear weapon states and between them and other groups from the agreement on scope.¹⁴⁹ The decision to settle scope on a zero yield shifted the calculus for non-nuclear weapon states that had active nuclear programmes as it would prevent them from conducting nuclear tests, should they accede. Despite conceding, the U.K. remained ambivalent, finding it hard to reconcile with the zero yield prospect. France conducted its sixth nuclear test, noting it would be the last.¹⁵⁰ Russia held firm on zero yield but nudged closer to China on verification.¹⁵¹ A series of private negotiations followed between nuclear weapon states on these issues that disrupted CD negotiations.¹⁵²

¹⁴⁴Pande, *CTBT: India and the Nuclear Test Ban Treaty*, 181.

¹⁴⁵“India hardens its position on disarmament,” *The Times of India*, December 24, 1995, 2.

¹⁴⁶Ghose, *Negotiating the CTBT: India's security concerns and nuclear disarmament*, 241.

¹⁴⁷In fact, some member states felt India’s disarmament ploy was intended as a ploy to allow them to eventually reject the treaty. See Johnson, *Unfinished business*, 89.

¹⁴⁸Conference on Disarmament, *Final Record of the Seven Hundred and Twenty-first Plenary Meeting*, CD document CD/PV.72.1 (Geneva: Conference on Disarmament, 1996)

¹⁴⁹Johnson, *Unfinished business*, 96.

¹⁵⁰*Ibid.*, 102-103.

¹⁵¹*Ibid.*

¹⁵²*Ibid.*

The Indian delegation was perturbed by the behaviour of nuclear weapon states. They hoped the treaty would bar all tests without exceptions to simulations or laboratory procedures but this prospect appeared remote given P-5 consensus on the Australian scope. Zero-yield conditions would effectively establish a 'low threshold that was designed to preserve the right to conduct hydro-nuclear tests.'¹⁵³ The Australian scope also meant that even with a zero-yield threshold 'India was faced with the possibility that the treaty would freeze its nuclear program' while nuclear weapon states could use existing space to upgrade their nuclear weapons.¹⁵⁴ The scope compromised Indian interests that reinforced their staunch desire for a treaty centred on disarmament.

To refocus negotiations on disarmament, the Indian delegation reiterated its plea for a treaty that banned all types and kinds of nuclear tests, peaceful or otherwise.¹⁵⁵ On January 25, Ghose implored the CD

'to ensure that the CTBT leaves no loophole for activity, either explosive based or non-explosive based, aimed at continued development and refinement of weapons. This situation would be untenable where, even with a CTBT in place, development, refinement and production of new nuclear weapons continues. Consequently, the political intent needs to be reflected in the CTBT, clearly defining our objective – a treaty which will bring an end to all nuclear weapons development, not constrained by artificial limits of verification within a clear and specific time-bound framework.'¹⁵⁶

Along the same lines, Indian Foreign Secretary Salman Haidar issued a public statement in New Delhi denouncing the 'qualitative development, upgradation and improvement of nuclear weapons' which he claimed impeded 'genuine nuclear disarmament within a time-bound framework.'¹⁵⁷ To achieve these objectives, India called for fair and transparent negotiations.

¹⁵³S. Laxman, "India's 'No' to CTBT was for topical reasons, says London Arms Analyst," *Times of India*, March 12, 1997, 10.

¹⁵⁴Interview with Rebecca Johnson, cited in Ibid.

¹⁵⁵Conference on Disarmament, *Indian draft language on review: working paper*, CD document CD/NTB/WP.296 (Geneva: Conference on Disarmament, 1996)

¹⁵⁶Pande, *CTBT: India and the Nuclear Test Ban Treaty*, 193.

¹⁵⁷Government of India, *Statement by Salman Haidar, Plenary Meeting of Conference on Disarmament*. (Geneva: Permanent Mission of India to Geneva, 1996)

That India would forward a strong disarmament proposal did not surprise other member states but the fact that they would attach a timeframe as a condition did.¹⁵⁸ Ghose defended the time-bound framework referring to examples of START I and START II that also had clear time frames, ‘the open-ended commitment to eliminate nuclear weapons is an unsigned promissory note, useless against the threat of nuclear weapons,’ she added.¹⁵⁹ The explicit link between the treaty and a target date for total disarmament appeared as folly to other delegates since nuclear weapon states would not countenance that condition.¹⁶⁰ The move created an impression that the Indian delegation deliberately set this condition foreseeing its defeat giving it the necessary justification to reject the treaty.¹⁶¹ Nonetheless, Ghose appeared sincere, ‘the political intent needs to be reflected in the CTBT, clearly defining the objective to bring to an end all nuclear weapons development.’¹⁶²

India’s latest proposal did little to move nuclear weapon states; this development meant negotiations were moving toward a close with nuclear weapon state consensus on scope and verification. On May 28 1996, Ramaker tabled an updated clean draft treaty. The text, in his words, were to drive the “last and final stage of negotiations.”¹⁶³ The draft met with a raft of concerns from G-21 states. Ghose was disappointed as the text did not include language on disarmament or address Indian reservations on scope, ‘it had become clear that the US and the rest of the P-5 supported by the Western Group were not willing to take on board any of our concerns. The Chairman came out with a clean text which did not refer to any of our concerns or our amendments.’¹⁶⁴ By now, India had seemingly reached a point of no return with its proposals and entreaties consistently rebuffed. Time had come to take stock on where India stood with respect to the treaty.

¹⁵⁸For India’s submissions to the CD in the 3rd session, See Conference on Disarmament, *Indian draft language on preamble: working paper*, CD document CD/NTB/WP.295 (Geneva: Conference on Disarmament, 1996); Conference on Disarmament, *Indian draft language on entry into force: working paper*, CD document CD/NTB/WP.297 (Geneva: Conference on Disarmament, 1996)

¹⁵⁹Conference on Disarmament, *Statement by Arundhati Ghose*, Plenary Meeting of Conference on Disarmament (Geneva: Conference on Disarmament, 1996)

¹⁶⁰Johnson, *Unfinished business*, 96-98.

¹⁶¹*Ibid.*

¹⁶²“India urges linking of CTBT with elimination of N-arms,” *Times of India*, January 25, 1996, 4.

¹⁶³Johnson, *Unfinished Business*, 105.

¹⁶⁴Ghose, *The Comprehensive Nuclear Test Ban Treaty: Intricate Moments during the Negotiations*, 213.

India's CTBT approach from mid-1995 was also affected by a churning public domain filled with views of various domestic constituencies and individuals, particularly strategic experts working on national security issues. Several views emerged from the wider national security community muddling public debate around the treaty.

By August 1995, Indian CTBT negotiators were flummoxed. Till then, they had focused on negotiating a treaty that imposed symmetric expectations on all member states vis-à-vis nuclear testing and verification. This approach was dented by NPT extension followed by Chinese and French nuclear tests that shattered hopes nuclear weapon states would accept meaningful curbs on their nuclear programs. Subsequent discussions and agreement on scope widened the gap between India's interests and the CTBT. This situation prompted a rethink in the MEA on India's CTBT position. Outside the MEA, public discussions on the treaty heated up from mid-1995. CTBT developments brought the nuclear question very much into the public domain beyond the 'contained circle of strategic analysts into the media.'¹⁶⁵

By late 1995, CTBT negotiations hardened the positions of several strategic experts already sceptical of the treaty. NPT extension in May 1995 laid to rest hopes that disarmament, India's key CTBT objective, would come to bear. Divisions between nuclear weapon states and non-nuclear states would remain. This situation was made worse by the Clinton administration's decision to lift restrictions on arms sales to Pakistan that reinforced calls made by nuclear proponents to strengthen India's nuclear capabilities.¹⁶⁶ Clinton's decision irked Indian policymakers and some security experts. To Brahma Chellaney, this 'duplicity' demonstrated Washington's hypocrisy on nuclear proliferation that was gallingly accompanied by calls for India to sign the NPT and discontinue its nuclear weapons program.¹⁶⁷ American reactions to Prime Minister's Rao's failed nuclear test in December 1995 further stoked the angsts of hard-line

¹⁶⁵Ibid.

¹⁶⁶Some Indian analysts felt America's arms sales to Pakistan given their knowledge of the latter's nuclear program 'implicitly condoned and recognised Pakistan as a nuclear state.' See J. Cherian, "Paying for Complacency," *Outlook India*, October 25, 1995.

¹⁶⁷Sunil Narula, "Browning off India-US Ties," *Outlook India*, October 25, 1995.

nuclear votaries like Chellaney and C. Raja Mohan resulting in a clear denunciation of the CTBT.

In January 1996, Chellaney repeatedly invoked American reactions to Rao's attempted nuclear test in the seminar circuit in New Delhi to lobby the government to reconsider its stance on the CTBT that would 'prevent India and other nuclear states from testing nuclear devices since it was at the core just another non-proliferation measure.'¹⁶⁸ Chellaney sensed that American pressure 'brought home very tellingly that CTBT was not an abstract subject - it had very real implications for India's strategic future.'¹⁶⁹ Chellaney urged the government exercise its right and test a nuclear weapon before the 'CTBT permanently closed the door.'¹⁷⁰ For Chellaney, the government's ambivalence was disconcerting since it used NPT extension to question the treaty's utility even as New Delhi had been cognisant of the 'hypocrisy of other nuclear powers for a long time.'¹⁷¹ It was alleged that Chellaney channelled the reservations of India's nuclear scientists who were keen to test which also dovetailed with his view. Publicly, Chellaney advised that the "technical demands of a missile-based deterrent could not be met" without testing of nuclear weapons.¹⁷² This option was open since work on the nuclear program continued apace with adjustments made due to India's fiscal troubles; given constraints, Abdul Kalam, Defence Research and Development Organisation chief, focused on larger projects including missile development.¹⁷³ However, clear thinking on this option was precluded by CTBT negotiations and the MEA's disarmament-centric approach.

The government's approach in balancing disarmament abroad and testing at home troubled Chellaney and Mohan given the strategy's utility having, now, seen the behaviour of nuclear weapon states. Both Mohan and Chellaney consistently lamented the lack of clarity from the MEA toward the CTBT, emphasising the need to not just test nuclear weapons but to also have the right to refine nuclear capabilities toward a robust nuclear posture. For them, what they saw as dithering on the CTBT or India's

¹⁶⁸Chellaney interview to Priyanjali Malik cited in Malik, *India's nuclear debate*, 171.

¹⁶⁹*Ibid.*

¹⁷⁰Sunil Narula, "Pressure Tactics," *The Outlook*, January 3, 1996.

¹⁷¹*Ibid.*

¹⁷²Brahma Chellaney, "It is Time for India to begin Nuclear Testing," *Pioneer*, August 30, 8, 1995.

¹⁷³Perkovich, *India's Nuclear Bomb*, 364.

cautious approach not only deferred a nuclear test but clouded strategic thinking on India's national security and how to best address existing threats. From their perch, clarity vis-à-vis India's nuclear posture and capabilities and how to best achieve that through policy was only possible with the CTBT out of the way.

Mohan attributed India's CTBT intentions to a desire to signal to major powers that India was willing to engage on key issues, notwithstanding security interests, 'for far too long in the recent past, the very murmur of disapproval from the great powers on a particular issue often stopped Indian policy in its tracks. In the last few years, India was ready to catch a cold even before India sneezed.'¹⁷⁴ In a television interview, he echoed Chellaney's criticisms of the treaty, 'the U.S. conditions for supporting the treaty are such that I don't think you can ever get a truly comprehensive test ban treaty. Second, I don't think the U.S. and the nuclear powers are going to accept disarmament conditionality's for signing this treaty. I just don't think it's going to work out.'¹⁷⁵ Put simply, the possibility of U.S. and Indian interests aligning on CTBT was quite far which made rejection of the CTBT followed by a nuclear test preferable.

Mohan and Chellaney's preferences anchored the treaty and India's position thereof on one issue – nuclear testing. Their views generally reflected the outlook of India's nuclear scientists and technical community that insisted India's deterrent would not be credible without conducting a few nuclear tests. Tests, they argued, were integral to develop missile-ready warheads and create a database for continued nuclear weapons research. Given the need to test, the CTBT, in current form, was untenable to both Mohan and Chellaney and scientists who subscribed to this view. However, Mohan also clarified that should India conduct an adequate number of tests and develop credible weapons capabilities, CTBT could be signed at a later date.¹⁷⁶ But in the MEA, this view did not have much salience since Indian diplomats had, for decades, sustained India's nuclear gaps and quandaries through disarmament diplomacy. This tack required working with the United Nations, Conference on Disarmament and, occasionally, the United States to improve India's nuclear security balance while developing the

¹⁷⁴Malik, *India's Nuclear Debate*, 195.

¹⁷⁵C. Raja Mohan, interview by Associated Press, March 24, 1996.

¹⁷⁶Pande, *CTBT: India and the Nuclear Test Ban Treaty*, 210.

necessary capabilities to test a nuclear device. Given the delays and political reticence around a nuclear test, diplomacy was the only available option.

Mohan and Chellaney's views broadly aligned with the views of K. Subrahmanyam, the doyen of India's strategic studies community, but with one major difference – Subrahmanyam supported CTBT withdrawal but did not explicitly call for nuclear tests to demonstrate India's nuclear capabilities.¹⁷⁷ As negotiations commenced, Subrahmanyam underscored the futility of nuclear weapons and his hope for a 'nuclear weapon-free world which will bar and eliminate all nuclear weapons.'¹⁷⁸ In an article written with General K. Sundarji, who held similar deterrence beliefs, and two American analysts, Subrahmanyam argued that India could possibly sign a CTBT for it hypothetically did not disturb India's existing *de facto* deterrence.¹⁷⁹ Subrahmanyam believed India could be a veritable spokesman for disarmament and deterrence, downplaying claims that a choice existed between both. In his view, both disarmament and deterrence were in the national interest and could be advanced as such.¹⁸⁰

But NPT extension deeply embittered Subrahmanyam. With the extension, India's disarmament focus ceased to be of use, in his view, given the perpetuation of differentiated nuclear statuses.¹⁸¹ Also with the extension, it became clear that CTBT would not be comprehensive, universally applicable or credibly advance disarmament. Subrahmanyam's immediate reaction was terse but trenchant, 'the extension legitimises a weapon of mass destruction in perpetuity and by implication its use for which there is no historical precedent.'¹⁸² As Priyanjali Malik points out, 'discrimination was an anathema' to Subrahmanyam and he unleashed a barrage of writings publicising the

¹⁷⁷Subrahmanyam was part of a task force from 1985 that discussed India's nuclear options which included a suggestion to build a minimal deterrent force. There was no clear emphasis on tests there. See, K. Subrahmanyam, "Bomb-The Only Answer," *The Times of India*, April 25, 1981; Also see Perkovich, *India's Nuclear Bomb*, 274.

¹⁷⁸See K. Subrahmanyam, "NPT extension unlikely to deter use of nuclear arms," *The Times of India*, April 21, 1995, 7.

¹⁷⁹M.G. Morgan, K. Subrahmanyam, K. Sundarji, and R.M. White, "India and the United States," *Washington Quarterly*, 18, 2 (1995): 155-179. Sundarji repeatedly claimed that tests were not necessary for India to exercise its nuclear option. See K. Sundarji, "India's nuclear option: ability to strike back," *The Indian Express*, February 14, 1996, 3; and K. Sundarji, "The CTBT debate: Choice before India," *The Indian Express*, December 4, 1995, 6.

¹⁸⁰K. Subrahmanyam, "Bomb-The Only Answer," *The Times of India*, April 25, 1981.

¹⁸¹K. Subrahmanyam, "After the NPT Extension: Perpetuating the Nuclear Status Quo," *The Times of India*, May 16, 1995, 7.

¹⁸²*Ibid.*

inequity.¹⁸³ The inequity largely emanated from what he perceived as inane nuclear rationalities that nuclear powers, U.S. in particular, subjected onto other states while exempting themselves from those very principles.¹⁸⁴ After NPT extension, the CTBT in his view was ‘perpetuating a nuclear apartheid’ that ‘reminds Indians that the age of imperialism is not over’ at least on nuclear matters.¹⁸⁵ Subrahmanyam seethed at what he perceived was unwarranted pressure from Washington to force India on the NPT and CTBT while remaining blind to burgeoning nuclear ties between China and Pakistan and of the latter’s alleged nuclear capabilities.¹⁸⁶

French and Chinese tests in late 1995 sensitised Subrahmanyam to the geopolitics of the treaty between major powers. Subrahmanyam was already alarmed of nuclear ties between China and Pakistan and attendant implications on India. The Indian government was aware of Sino-Pakistani nuclear ties and of Pakistan’s uranium capabilities since 1986 but introducing the United States allowed Subrahmanyam to claim Washington was more intent on constricting India’s nuclear aspirations than meaningfully constraining nuclear ties between India’s chief adversaries. Importantly, he clarified, these problems could not be rectified through the CTBT since, even at zero-yield scope, nuclear weapon states had sufficient latitude to conduct certain tests.¹⁸⁷ Pakistan’s nuclear maturation under an Asian security context marked by China’s economic rise unnerved Subrahmanyam. Expecting Beijing’s rise to sustain, Subrahmanyam warned of consequent implications to other Asian powers, like India, that he argued should ‘build its image as a nuclear weapon capable power.’¹⁸⁸ Again, the point was not to immediately test a nuclear weapon but to demonstrate nuclear capabilities somehow. Like Chellaney and Mohan, Subrahmanyam was befuddled by Washington’s unyielding non-proliferation focus toward India instead of working with New Delhi ‘to keep an appropriate balance vis-à-vis China.’¹⁸⁹ Later, he deduced that

¹⁸³Malik, *India's Nuclear Debate*, 192.

¹⁸⁴*Ibid.*

¹⁸⁵*Ibid.*

¹⁸⁶Subrahmanyam was particularly troubled by U.S. attempts to cut off nuclear supplies to India in early 1995. See, K. Subrahmanyam, “U.S. Pressure Ploy on India for NPT,” *The Times of India*, May 25, 1995.

¹⁸⁷ *Ibid.*

¹⁸⁸K. Subrahmanyam, “Enter the Dragon: China will tilt the Balance of Power,” *The Times of India*, Aug 16, 1995.

¹⁸⁹K. Subrahmanyam, “Missile Proliferation: U.S. must heed India’s Concerns,” *The Times of India*, July 13, 1995, 7.

the CTBT was a ‘major strategic confrontation between the United States and China with the game being played in the CD a charade.’¹⁹⁰

As 1996 rolled in, Subrahmanyam’s views sharpened, scepticism mounting toward CTBT negotiations. Near the end of January, lead negotiator Ghose submitted a new proposal that anchored the treaty on disarmament to be achieved within a specific time-frame. Ghose’s time-bound proposal was directed to gauge whether nuclear weapon states were serious on disarmament or if negotiations were a ruse to entrench their nuclear privileges.¹⁹¹ As expected, the Indian proposal was not given serious consideration which made it clear to Subrahmanyam that negotiations were only serious about disarmament for non-nuclear weapon states. This development also made him realise that fighting for a CTBT at the CD was a futile effort as long as the NPT remains breached. In a thunderous column published on January 25 1996, Subrahmanyam likened the existing nuclear hierarchy to ‘nuclear imperialism,’ exhorting India to adopt Gandhian methods of non-cooperation to resist the CTBT.¹⁹² ‘Non-accession to CTBT,’ in his words was ‘a logical extension of India staying out of the NPT, especially when nuclear weapons have been sought to be legitimised through their indefinite and unconditional extension.’¹⁹³

Subrahmanyam then shifted focus to disarmament to illuminate how negotiations did nothing to advance the cause, ‘the treaty, as it is being canvassed, will not reduce one single warhead to deserve the name of being a step toward disarmament. It is aimed at freezing the present technological status quo and prevent the three undeclared nuclear weapon states – India, Israel and Pakistan, from testing first generation weapons.’¹⁹⁴ Subrahmanyam decried the obvious disparity, pointedly raising concerns over the NPT and its effects on the CTBT, ‘what is the purpose of prohibiting nuclear weapon tests if a nuclear weapon state can pass on nuclear weapons technology or for that matter weapons themselves to a non-nuclear weapons country?’¹⁹⁵ The

¹⁹⁰Ibid.

¹⁹¹Former MEA Disarmament Official. Interview by author. January 11, 2016.

¹⁹²K. Subrahmanyam, “Nuclear Imperialism: A Gandhian Response to NPT and CTBT,” *The Times of India*, Jan 25, 1996, 6.

¹⁹³Ibid.

¹⁹⁴K. Subrahmanyam, “The CTBT Issue: Ploy to freeze an unequal order,” *The Times of India*, February 7, 1996, 3.

¹⁹⁵K. Subrahmanyam, “India and CTBT,” *The Times of India*, February 21, 1996, 4.

scenario, he argued, posed particular concerns for India since it would have to 'take into account the possibility of a China-Pakistan nuclear weapon relationship in spite of China's membership of NPT and its obligation not to transfer nuclear weapon technology.'¹⁹⁶ Given the futility of the NPT in preventing illicit transfer of nuclear materials between countries, Subrahmanyam pushed the government to question how a CTBT would improve this situation after legitimising nuclear weapon states.¹⁹⁷

Even as Subrahmanyam's views touched a range of issues, it did not lend easily to a policy solution or approach that MEA officials could apply at negotiations. In the words of one of his contemporaries on his public campaign against the CTBT, 'Subrahmanyam was the ultimate salesman with respect to the CTBT. He had the ability to marshal all kinds of arguments - good, bad and sophisticated and he used a litany of different opinions to get his points across.'¹⁹⁸ Subrahmanyam's views, however, did not go uncontested; two more voices entered the fray pushing the government to stay the course and accept the CTBT despite its flaws.

The most prominent voice against Subrahmanyam was Muchkund Dubey, former Foreign Secretary, who agreed deterrence was necessary but did not believe 'India had to test to demonstrate its nuclear capability.'¹⁹⁹ Dubey endorsed accession on certain conditions. Some Indian scientists held this view, including R. Chidambaram, director of India's Atomic Energy Commission.²⁰⁰ Dubey reinforced the sufficient deterrence argument against Subrahmanyam, 'I felt India could sign CTBT and still continue building our nuclear capacity. I felt we had adequate nuclear capabilities to deter, otherwise known as latent or recessed deterrence. Our scientists were telling us subcritical tests in laboratories could continue with the miniaturization of warheads. I did not think we needed unlimited deterrence, which is not a necessity or sufficient even now.'²⁰¹ On the CTBT, Dubey argued India adhere as long as it proved to be 'comprehensive, non-discriminatory' and had some language referring to disarmament within a time-frame.²⁰² However, Dubey did state that if these conditions were not met,

¹⁹⁶Ibid.

¹⁹⁷Ibid.

¹⁹⁸Former Indian Disarmament Negotiator. Interview by author. December 11, 2015.

¹⁹⁹Ibid.

²⁰⁰Perkovich, *India's nuclear bomb*, 178.

²⁰¹Muchkund Dubey.

²⁰²Ibid. P. 9

India should reject the treaty without ‘yielding to pressure’ from nuclear weapon states.²⁰³

Subrahmanyam challenged Dubey’s position, ‘some have argued that India should continue its efforts to get a meaningful disarmament linkage for the CTBT during the Geneva negotiations, and after all avenues of securing such a linkage are exhausted should we reach the decision-making point of whether we should sign the treaty or not. This is not the right course for India.’²⁰⁴ Subrahmanyam pushed the Indian government to dispense with the disarmament rhetoric once and for all for none of the nuclear weapon states deemed the matter as universally important. Instead, he urged the government to be mindful of the larger geopolitics around the CTBT with the rise of China, nuclear status of Pakistan and the patent inability of the United States to appreciate those risks.²⁰⁵

But Dubey’s views could not be summarily dismissed; a longstanding advocate of disarmament and the architect of Rajiv Gandhi’s fated disarmament action plan, Dubey had a stellar grasp of the diplomatic trade-offs around the CTBT and how to balance international pressures and domestic exigencies vis-à-vis nuclear diplomacy. The importance of regional security conditions was not lost on Dubey, particularly should China’s nuclear assistance to Pakistan result in the latter becoming a full-fledged nuclear weapons state. Dubey sought to articulate a policy that could seemingly protect India’s existing nuclear capabilities and prevent Pakistan and other threshold states from acquiring nuclear weapons. Even though the MEA and Dubey view’s aligned in terms of latent deterrence, the position became untenable as the politics around CTBT debates brought the issue of nuclear testing to the fore. It became progressively difficult for MEA officials to continually sustain the nuclear ambiguity having been bombarded with opinions from experts like Subrahmanyam, Chellaney and Mohan on the toxic regional security situation with two adversaries – China and Pakistan collaborating on nuclear issues with one of those adversaries - Pakistan - fuelling an insurgency on the Indian border. Put simply, the issue of nuclear testing could no longer be ignored.

²⁰³Ibid.

²⁰⁴See, K. Subrahmanyam, “CTBT Issue: Merely Arms Control for the Big Five,” *The Times of India*, Mar 22, 1996, 8.

²⁰⁵Ibid.

Also gathering to contribute to the public debate was a nascent anti-nuclear weapons movement around India's 'two-man anti-nuclear brigade' - Achin Vanaik and Praful Bidwai.²⁰⁶ Both Vanaik and Bidwai pushed the Indian government to accept the treaty, flaws notwithstanding, for they saw disarmament as an iterative project built on measures like the CTBT.²⁰⁷ Bidwai and Vanaik questioned the efficacy of India's insistence to link the CTBT with 'time-bound disarmament' that in their eyes 'could have never been accepted without destroying the purpose and possibility of a CTBT.'²⁰⁸ They argued that the CTBT's real significance 'is that it will end the nuclear arms race, one of the worst menaces the world has ever known.'²⁰⁹ In a television interview in April 1996, Bidwai clarified his view, 'rejecting the treaty would have very bad implications for India's security because this means that, most likely, Pakistan will not sign the CTBT. The two countries will keep their nuclear weapons option open and this will lead to a deterioration of security balance in the region and will make for an extremely messy nuclear policy in the Indian case.'²¹⁰ Though Vanaik and Bidwai's preferences were clear, their message lacked force. Organisational constraints hampered the anti-nuclear movement from acquiring an organised national presence that blunted their potency.²¹¹ Other obstacles also existed; Vanaik argues as CTBT debates picked up,

'the position of anti-nuclear activists was rather small and inconsequential to the big picture. Negative press did not help us as we were portrayed as stooges to the United States that was trying to squeeze India. It is also important to remember that there was not much popular support for us. India had a middle class that was not radicalised. Looking back, India was independent of an antinuclear movement for decades. Other elements of the anti-nuclear movement were tied to political parties and thus divorced from the core message. At times, elements that would have supported us from the Left also rejected the CTBT, influenced by currents of nuclear nationalism. Amongst the larger group, only

²⁰⁶ At the same time, a grassroots campaign was taking place in Orissa to prevent the government from seizing land for a missile testing range. Locals moved petitions and conducted meetings to chase government officials off the proposed missile range. See A. Carter, *Peace movements: International protest and world politics since 1945* (New York: Routledge, 2014), 178.

²⁰⁷ A. Vanaik, "A Political Case for a NWFZ in South Asia," *Economic and Political Weekly*, Vol 20, 48 (1985): 2118.

²⁰⁸ A. Vanaik, and P. Bidwai, "The Treaty can't be Held Hostage," *The Outlook*, July 17, 1996.

²⁰⁹ Pande, *CTBT: India and the Nuclear Test Ban Treaty*, 208.

²¹⁰ Praful Bidwai, interview by Associated Press, April 15, 1996.

²¹¹ This problem dogged anti-nuclear activism in India. Only after nuclear tests in 1998 did the impetus for an anti-nuclear movement arrive with the establishment of the Coalition for Nuclear Disarmament and Peace. See *The Movement in India for Nuclear Disarmament, Living in the Nuclear Shadow* (New Delhi: Orient Longman, 1999), 2-4.

Praful, Kanti Bajpai and I were able to get our views across to the public on the merits of the CTBT. Visibility was largely individual, not collective.’²¹²

Different domestic perspectives on the treaty, in effect, dominated the public discourse on the treaty but gave the government more leeway in terms of making a clear policy choice on the matter. As these views were being projected into the public domain, the MEA was reassessing its own position on the treaty that suggested some pushback from its initial CTBT position. At a seminar on India’s nuclear options in December 1995, MEA officials, retired diplomats and strategic experts debated on the utility of India’s nuclear stance that led to their conclusion that a ‘hardening of India’s nuclear posture’ was warranted in light of ‘the permanent extension of the NPT.’²¹³ But it was not clear from the discussion what ‘hardening’ was tantamount to in terms of policy – whether it meant a rejection of the CTBT with no commitment to test a nuclear weapon, rejection of the CTBT followed by a nuclear test or signing the CTBT provisionally and leaving ratification to be dealt with later. Indeed, the MEA appeared to be assessing these options as domestic debates picked up; in fact, at the December 1995 seminar, several participants identified that the current policy of “keeping the nuclear option” ceased to be of use and there existed a “need to examine how best to translate this into effective deterrence.”²¹⁴ There was also an acknowledgement from MEA officials present that India’s co-sponsoring of the CTBT was a ‘mistake’ akin to a ‘self-made goal.’²¹⁵ At another conference organised by the Centre for Policy Research (CPR) in January 1996, Foreign Secretary Salman Haidar laid out his concerns of CTBT negotiations. One of the participants at the conference, P. R. Chari, claimed after there was ‘official sponsorship of opposition to the CTBT’ led by the Foreign Secretary himself.²¹⁶ But despite this realisation, there was no clear signal on what the resultant policy should be; the MEA, in effect, left the door open for some progress before a decision had to be made.

It was clear from the seminar that the MEA, misgivings aside, did not bind itself with the views of a particular individual or position – Mohan and Chellaney, Subrahmanyam, Dubey or Vanaik and Bidwai. Despite critical statements from

²¹²Achin Vanaik, Interview by author. Nov 18, 2015.

²¹³A. Mattoo, “India’s nuclear status quo,” *Survival*, 38, 3 (1996): 47.

²¹⁴*Ibid.*

²¹⁵T.S. Subramanian, “A Guessing Game,” *Frontline*, January 26, 1996.

²¹⁶Interview with P.R. Chari cited in Malik, *India's Nuclear Debate*, 178.

External Affairs Minister and head of India's Atomic Energy Commission over CTBT negotiations in late 1995, uncertainty lingered over whether India's shifting mind-set would precipitate rejection of the CTBT and, perhaps, a nuclear test. The uncertainty was driven by the fact that the diplomatic trade-offs for India over CTBT negotiations were not clearly laid out even as perceptions of the CTBT evolved. In February 1996, Foreign Secretary Salman Haidar declared that while disappointed with negotiations India 'did not believe the acquisition of nuclear weapons is essential for its security.'²¹⁷ The statement indicates that the MEA still had nominal faith in disarmament despite how CTBT negotiations had transpired in Geneva. But the Indian delegation had to return to see whether they can move nuclear weapon states to agree to certain constraints before deciding on whether to sign the treaty.

Rejecting CTBT – Gowda and Ghose

By 1996, India's public domain was filled with a variety of opinions on the CTBT. Individuals like K. Subrahmanyam, C. Raja Mohan, Brahma Chellaney, Achin Vanaik, Praful Bidwai and Muchkund Dubey opined on the merits of the CTBT and how the Indian delegation should respond once they return for negotiations. Mohan and Chellaney urged rejection followed by a nuclear test, Vanaik and Bidwai supported accession, Subrahmanyam pushed the government to withdraw from the treaty to protect India's autonomy on nuclear issues while Dubey endorsed conditional accession having achieved some deterrence. The eventual decision, though, had to be taken by the Indian Prime Minister.

Within a month in mid-1996, two governments came to power in New Delhi, one led by the Bharatiya Janata Party (BJP) that lasted thirteen days and the other a coalition government led by Janata Dal (JD) leader Deve Gowda.²¹⁸ I.K. Gujral became External Affairs Minister under Gowda. In office, Gujral pledged to maintain the Congress government's CTBT policy that linked the treaty to universal nuclear disarmament; critics questioned whether the position was provisional before India

²¹⁷Sunil Narula, L. Joseph, and R. Sengupta, "CTBT: In Isolation Ward Again," *Outlook India*, July 17, 1996.

²¹⁸Stanley Kochanek and R. Hardgrave, *India: Government and Politics in a Developing Nation* (Washington, DC: Cengage Learning, 2007), 404.

formally rejected but this question was left unanswered.²¹⁹ Initially, it was unclear what the incoming government's position was on nuclear tests and how that would come to bear on India's CTBT position. Early on, Gowda questioned Gujral on the possibility of a nuclear test but Gujral advised caution advising Gowda that resultant costs would be 'unbearable for our economy and social infrastructure.'²²⁰ This position, in effect, meant that the government would see negotiations through for a CTBT despite misgivings over negotiations in Geneva.

Divisions also reared within government. The incoming government's nuclear ambiguity flustered the nuclear establishment, particularly nuclear scientists who urged the government to clarify India's nuclear position. A senior Department of Atomic Energy official argued 'by not signing the CTBT, you will invite international opprobrium, including sanctions. As it is, since 1975, developed countries have stopped giving us vital technology, thus affecting our nuclear power generation, which at the moment is pitifully low. But despite this, we are not going to gain anything when we say we are not for nuclear explosion and yet refuse to sign the CTBT. The situation of pain without no gain does not make any sense.'²²¹ Calls from scientists could not be disregarded since work on India's nuclear programme continued with missile development.²²² Internal reservations combined with energetic public debate on the CTBT compelled the government to make a decision on the treaty just as Indian negotiators returned to Geneva for negotiations.

To categorically rule on the matter, Ghose was summoned back from Geneva to discuss the chairman's May 28 draft treaty. Key principals - Prime Minister, Foreign Minister and Foreign Secretary debated on whether to accept or reject the treaty with consensus edging toward rejection.²²³ The final decision belonged to Gowda. After hearing different positions in the room, generally unenthusiastic, Gowda turned to Ghose and asked if she was 'satisfied with the brief' and confident of heading back to Geneva to declare India's rejection.²²⁴ Ghose replied she 'needed clear instructions in

²¹⁹For a good overview of Gujral's views on arms control and nuclear weapons, see I.K. Gujral, *Viewpoint: Civilization, Democracy and Foreign Policy* (New Delhi: Allied Publishers, 2009), 89-102.

²²⁰I.K. Gujral, *Matters of Discretion: An Autobiography* (New Delhi: Hay House, 2011), 628.

²²¹*Ibid.*

²²²K. Subrahmanyam, "India enter Missile Age," *The Times of India*, July 13, 1990.

²²³Ghose, *The Comprehensive Nuclear Test Ban Treaty: Intricate Moments during the Negotiations*, 213.

²²⁴*Ibid.*

writing approved by him' to go ahead.²²⁵ Gowda gave his consent. The paperwork was completed for Ghose to return and convey India's decision.²²⁶

To justify rejection, India focused on security reasons and how CTBT negotiations and conduct of nuclear weapon states compromised India's security. In particular, emphasis was given to the treaty's inability to extend beyond nuclear testing to limit proliferation between states particularly in India's neighbourhood. Although scope-wise, there was limited room to strew this desire into the draft treaty, it was the summary disregard of disarmament by nuclear weapon states that nettled Indian negotiators.²²⁷ A clear multilateral declaration on disarmament, in India's view, could have controlled illicit nuclear transfer but negotiations overlooked the issue. Presenting the government's decision on June 23, Foreign Secretary Salman Haidar made oblique references to China and Pakistan, 'countries around us continue their weapon programmes either openly or in a clandestine manner. In such an environment, India cannot accept any restraint on its capability if other countries remain unwilling to accept obligations to eliminate their nuclear weapons.'²²⁸ Haidar declared that the treaty appeared 'discriminatory and woefully inadequate' and one that 'has no effect on the South Asian security environment.'²²⁹

On the same day in Geneva, Ghose conveyed India's rejection, 'the basic prohibitions, as drafted so far, which define the scope remain very narrow and do not fulfil the mandated requirement of a comprehensive test ban. This approach would give us only a nuclear weapon test explosion ban treaty and not a Comprehensive Test Ban Treaty.'²³⁰ Ghose underscored India's security concerns by calling out 'countries around us that continue their weapon programmes, either openly or in a clandestine way.'²³¹ Ghose's peroration then reached its climax, 'this cannot be the CTBT that India can be expected to accept. Countries around us continue their nuclear weapons programme, either openly or in a clandestine manner. In such an environment, India cannot accept

²²⁵Ibid.

²²⁶Ibid.

²²⁷Muchkund Dubey.

²²⁸'India can't be forced to adhere to CTBT, says Salman Haidar,' *The Times of India*, June 24, 1996.

²²⁹M. Ved, "India rejects CTBT draft, keeps N-option open," *The Times of India*, June 21, 1996, 7.

²³⁰Conference on Disarmament, *Statement by Arundhati Ghose, Plenary Meeting of Conference on Disarmament* (Geneva: Conference on Disarmament, 1996)

²³¹Ibid.

any restraints on its capability, if other countries remain unwilling to accept the obligation to eliminate nuclear weapons. Such a treaty is not in India's national security interest. India, therefore, cannot subscribe to it in its present form.²³² Ghose's declaration was followed by a formal statement in parliament on July 15. External Affairs Minister Gujral expressed regret that negotiations had not done 'justice to its mandate,' instead legitimising nuclear possession by a few powers.²³³ Most CD member states had by then accepted the Chair's May 28 draft treaty. On June 28, Chairman Ramaker tabled a revised draft, widely expected to be the final version.²³⁴ But countries were yet to agree on entry into force, a provision that would come to be marked by India's intransigence.

Entry into Force

To be legally binding, a treaty has to enter into force (hereafter EIF). Provisions on entry into force stipulate how a treaty becomes legal after ratification. Typically, a treaty enters into force through a specific time frame once a treaty is finalised and open for signature.²³⁵ In the first two years, CD discussions did not produce a clear EIF provision. This impasse prolonged debate on EIF, particular on the number of member state ratifications required for the CTBT to come into effect. From May 1996, developments became more contentious and problematic, particularly for India. Under pressure from Russia and the U.K. to finalise a draft treaty, Chairman Ramaker inserted an amendment linking EIF to the treaty's proposed international monitoring system that India had agreed to earlier.²³⁶ Under Ramaker's formula, the treaty would enter into force after ratification by 37 states that offered their seismic facilities or radionuclide laboratories to the treaty's International Monitoring System (IMS).²³⁷ But the proposal was met tepidly. Rebecca Johnson argues Ramaker hoped for this move to be a 'placeholder' that would make negotiators resolve the problem.²³⁸ Instead it became a flashpoint.

²³²Ibid.

²³³Government of India, *Statement by I.K. Gujral on India's position on the Comprehensive Test Ban Treaty*. XI Lok Sabha Debates

²³⁴Johnson, *Unfinished Business*, 133.

²³⁵For more see M.N. Shaw, *International Law* (New York: Cambridge University Press, 1998), 649-50.

²³⁶Rebecca Johnson, *Test Ban Verification Matters: Finalising the CTBT* (London: Verification Technology Information Centre, 1996), 13.

²³⁷Johnson, *Unfinished Business*, 119-122.

²³⁸Ibid.

India opposed Ramaker's EIF provision deeming it to be a violation of its sovereignty and an effort to inveigle it into the CTBT. The Indian delegation quickly mounted a rear-guard action to ensure India would be exempt from the entry into force clause. Wasting no time, Ghose threatened to withdraw Indian seismic stations from the IMS.²³⁹ Whether or not the provision was intended to be a 'placeholder', the issue became moot when Russia and China endorsed the provision.²⁴⁰ Seeing no way around, India withdrew its stations from the IMS.²⁴¹ Offering another way, India proposed to anchor the treaty around a timetable for nuclear disarmament; Ghose moved a proposal stating 'this treaty shall enter into force only after all state parties have committed themselves to the attainment of the goal of total elimination of all nuclear weapons within a well-defined framework.'²⁴² By now, India's calls for disarmament had become incongruent with the interests of nuclear weapon states. From an Indian point of view, it appeared as though nuclear weapon states were looking to surreptitiously lock-in gains, particularly on scope and verification, through an amenable EIF provision.²⁴³

Indian delegates grew strident. Repeatedly, Ghose tied EIF to universal disarmament, warning India was willing to block consensus unless the provision was amended, 'India cannot accept any restraints on its capability if other countries remain unwilling to accept the obligation to eliminate their nuclear weapons. India would not accept any language in the treaty text which would affect our sovereign right to decide in the light of our supreme national interest, whether we should or should not accede to such a treaty.'²⁴⁴ Setbacks aside, Ramaker persisted to re-engage India; he abandoned the IMS-based proposal, given India's resistance, and devised a new plan that made EIF conditional on a list of 44 states that were participating members of the CD and in the 1995-1996 IAEA list of states with nuclear programmes and reactors.²⁴⁵ EIF now formed Article XIV that now applied to 44 states with a three-year cushion given on

²³⁹Ibid.

²⁴⁰Ibid.

²⁴¹Ibid.

²⁴²Conference on Disarmament, *Statement by the Indian Representative on Entry into Force*. Document CD/NTB/496. Paper no. 3 (Geneva: Conference on Disarmament, 1996)

²⁴³Johnson, *Unfinished Business*, 137-138.

²⁴⁴Conference on Disarmament, *Final Record of the Seven Hundred and Fortieth Plenary Meeting*, CD document CD/PV.740 (Geneva: Conference on Disarmament, 1996)

²⁴⁵Ibid. P 132-133.

ratification.²⁴⁶ This provision meant that the CTBT would still apply to India, after rejection, as India was one of the 44 states that had nuclear facilities under IAEA safeguards. Ghose and her delegation made clear that the move contravened international law since ‘no state can be coerced into signing a treaty, nor can a treaty’s entity into force be made conditional on the signature of any country, without that country’s consent.’²⁴⁷

To exempt India, Ghose submitted another proposal on August 8, 1996 where the treaty would come into effect after 65 states ratify.²⁴⁸ Upon submission, Ghose warned that if EIF was not adjusted accordingly India would ‘would be reluctantly obliged to oppose’ the treaty in the CD.²⁴⁹ But other member states were unwilling to back India’s proposal. On August 19, the treaty returned for final consideration. India refused to give consent or allow any CD document to be passed to the U.N. General Assembly without consensus.²⁵⁰ Invoking U.N. General Assembly Resolution 50/65 that agreed to endorse a final CTBT text when the CD resumed, Ghose countered that this outcome would not be possible since ‘there was no consensus on the text and there was no consensus on forwarding it to the UN General Assembly.’²⁵¹ Before finishing, Ghose added ‘it is unprecedented in the history of international treaties that a sovereign nation is required to sign a treaty against its will under implied threats.’²⁵²

Left with no option, Ramaker presented the final report to the CD on August 20.²⁵³ Again Ghose restated India’s objections to adopt the report without CD consensus.²⁵⁴ Several attempts followed, in vain, to placate India and have the treaty sent to U.N. in New York. Back home, the MEA maintained Article XIV left them no option but block the treaty, ‘though India would not have endorsed the CTBT itself, it

²⁴⁶Ibid.

²⁴⁷Ghose, *Negotiating the CTBT: India's security concerns and nuclear disarmament*, 257.

²⁴⁸Conference on Disarmament, *Statement by Arundhati Ghose (India)*. *Final Record of the Seven Hundred and Forty-fourth Plenary Meeting*, CD document CD/PV.744 (Geneva: Conference on Disarmament, 1996)

²⁴⁹Ibid.

²⁵⁰Conference on Disarmament, *Statement by India. Report of the Ad Hoc Committee on a Nuclear Test Ban to the Conference on Disarmament*. CD Document CD/1425 (Geneva: Conference on Disarmament, 1996)

²⁵¹S. Kirpekar, “Moves on to take CTBT draft to the UN,” *The Times of India*, August 14, 1996, 9.

²⁵²Conference on Disarmament, *Statement by Arundhati Ghose (India)*.

²⁵³Conference on Disarmament, *Statement by Jaap Ramaker (Netherlands)*. *Final Record of the Seven Hundred and Forty-sixth Plenary Meeting*, CD document CD/PV.746 (Geneva: Conference on Disarmament, 1996)

²⁵⁴Ibid, *Statement by Arundhati Ghose (India)*.

would not have blocked the treaty had the entry into force clause not been categorical about getting India's concurrence within three years, failing which the CD would have thought of measures against us. This was nothing but an affront on our sovereignty.'²⁵⁵

To clear the impasse, the Belgian Ambassador called for the draft to be sent to the U.N. General Assembly as an official CD document without consensus.²⁵⁶ Belgian initiative was assisted by the Australian Ambassador to the U.N. who requested for the U.N. General Assembly to consider the CTBT.²⁵⁷ On September 9, the U.N. resolution on CTBT (50/245) was considered.²⁵⁸ A vote was taken on September 10 where the CTBT was endorsed by 158 states.²⁵⁹ Five states - Cuba, Lebanon, Mauritius, Syria and Tanzania abstained and three states - Bhutan, India and Libya voted against.²⁶⁰

Ghose then delivered a statement tinged with a mix of anger and disappointment, 'this treaty would only succeed in perpetuating a discriminatory status quo.'²⁶¹ Concluding, Ghose declared 'India will never sign this unequal treaty, not now, nor later.'²⁶²

Conclusion

India rejected the Comprehensive Test Ban Treaty after recognising that the treaty would not impose symmetric nuclear test ban commitments on member states in the Conference on Disarmament instead reproducing the nuclear disparity between nuclear weapon and non-nuclear weapon states. Before negotiations, the Ministry of External Affairs (MEA) pushed universal disarmament to address India's nuclear security deficit.

²⁵⁵P. Nanda, "Western Media Ignores India's Point on CTBT," *The Times of India*, September 10, 1996, 5.

²⁵⁶Conference on Disarmament, *Statement by Alain Guillaume (Belgium). Final Record of the Seven Hundred and Forty-seventh Plenary Meeting*, CD document CD/PV.747 (Geneva: Conference on Disarmament, 1996)

²⁵⁷United Nations General Assembly, *Letter from the Permanent Representative of Australia to the United Nations addressed to the President of the General Assembly*, UN document A/50/1024 (New York: United Nations General Assembly, 1996)

²⁵⁸Johnson, *Unfinished Business*, 141.

²⁵⁹*Ibid.*

²⁶⁰*Ibid.*

²⁶¹United Nations General Assembly, *Statement by Arundhati Ghose, Ambassador of India to the UN in Geneva. New York: United Nations General Assembly* (New York: United Nations General Assembly, 1996)

²⁶²*Ibid.*

CTBT negotiations gave MEA officials another opportunity to reduce existing nuclear gap between them and nuclear weapon states and neutralise regional nuclear tensions. Indian diplomats had a deep understanding of nuclear disarmament. At negotiations, the Indian delegation strove to negotiate a tough, equally applicable treaty that placed uniform expectations on all member states in terms of nuclear tests and verification. But this desire was assiduously thwarted by nuclear weapon states that were keen to reserve certain privileges in terms of nuclear testing. To contest this move, Indian negotiators pushed hard for the treaty to be anchored on a clear time-bound disarmament framework but this ploy also ended in vain.

This development made Indian negotiators question the treaty's merits and reassess their position alongside a tide of domestic voices back home. NPT extension and Chinese and French nuclear tests shook India's domestic nuclear debate, bringing forward a diverse set of domestic views from various non-governmental voices on how India should respond at negotiations - ranging from acceding to the CTBT without conditions and rejecting it comprehensively. Domestic security experts appeared divided with respect to how Indian diplomats should respond to negotiations having achieved none of their interests and standing on the cusp of accepting a treaty that dented India's security and ability to test a nuclear weapon. A range of views emerged that covered different sides of the debate but with no clear policy position or alternative. No strong coalition formed with respect to the CTBT that could settle on a position and work with the MEA to secure its interests. Informally, MEA officials gathered various views on the treaty but the diverse range of domestic preferences gave them more leeway in terms of responding to developments at negotiations. MEA officials choose to keep their options open once negotiations resumed and gauge whether nuclear weapon states would be willing to accept language on disarmament or limited curbs on their nuclear arsenals. But before this could happen, Indian negotiators obtained the necessary political consent to convey India's rejection.

Chapter Six - India and the Uruguay Round Trade Agreement

Introduction

This chapter covers India's ratification of the Uruguay Round Trade Agreement at the General Agreement on Tariffs and Trade (GATT). GATT member states took part in multilateral trade negotiations from 1986 to 1994 at the Uruguay Round. Negotiations led to the creation of the World Trade Organization and extended GATT principles to areas previously exempted (Agriculture, Textiles) and new areas (Intellectual Property Rights, Trade in Services, etc.). The chapter first provides a background covering developments that led to multilateral trade negotiations at the Uruguay Round and India's behaviour at the Round. India's behaviour was marked by a willingness to negotiate and accept rules in areas like agriculture and textiles where it historically resisted liberalisation and in new areas like trade in services and intellectual property rights. I also ask why the Indian government adopted this approach. Next, the chapter provides an analytical narrative focusing on how interests, institutions and interest groups interacted to determine India's approach at the Uruguay Round negotiations leading to ratification of the larger trade agreement. Briefly, the Ministry of Commerce was keen to protect and advance India's interests at trade negotiations. The ministry, in particular, focused on reducing international trade barriers that prevented Indian goods and services from reaching foreign markets. Various business lobbies and associations played a notable role influencing India's agenda at GATT negotiations that led to India signing on major trade agreements in textiles, agriculture, services and intellectual property rights.

Background

In the 1980s, protectionism was rampant within the international trade system.¹ Developed countries were incensed by GATT's concessions to developing countries that made them full members without expecting commensurate reduction in trade barriers; instead, GATT allowed them to maintain trade restrictions to ease thorny balance of payment quandaries. For developed countries, this practice amounted to free-

¹ John Croome, *Reshaping the World Trading System: A History of the Uruguay Round* (New York: DIANE Publishing, 1996), 12.

riding by developing countries while they faced constant protectionist pressures.² To overcome macroeconomic difficulties – inflation, unemployment and stiff export competition from Asian economies, the U.S and several European countries relied on subsidies and various non-trade barriers to protect certain industries like apparel and clothing from developing country goods.³ Specifically, developed countries used safeguards and other policy measures, like Voluntary Export Restraints (VERS), to limit exports from developing countries that persisted for years, unchecked.⁴ To be sure, GATT permitted countries to impose trade restrictions when facing problems like balance of payment difficulties, infant industry promotion or unfair competition when goods are dumped causing internal economic disruptions.⁵ These measures, however, were designed to be temporary until products ceased to be injurious to the importing country.⁶ But in practice, rules were seldom followed; developed countries acquired immense power imposing such restrictions while few mechanisms existed to verify their claims. Ultimately, these unilateral measures undermined GATT's credibility to uphold institutional norms that prized openness, transparency and economic growth.

In October 1980, Arthur Dunkel, Swiss trade negotiator, became GATT Director General. To understand how such measures were affecting GATT's credibility, Dunkel established a group of independent experts to 'identify the fundamental causes afflicting the international trading system and consider how these may be overcome during the remainder of the 1980s.'⁷ One of the remedies, the group suggested, was to begin a new round of GATT negotiations to 'strengthen the multilateral trading system and further open world markets.'⁸ The report was released in Geneva at a time when countries were largely split on a new round of negotiations. The United States gave its blessing for a new round which affected the logic of other member states who prized greater access to the American market. India opposed the prospect of new obligations when prior commitments on protectionism and non-tariff barriers remained unfulfilled.⁹ Other

²Former Indian GATT Negotiator, New Delhi, Interview by author. April 22, 2016.

³Jeffrey. A. Frieden, *Global Capitalism: Its Fall and Rise in the Twentieth Century* (New York: WW Norton, 2006), 409-413.

⁴ Croome, *Reshaping the World Trading System*, 65.

⁵Amrita Narlikar, *The World Trade Organization: A Very Short Introduction* (London: Oxford University Press, 2014), 17.

⁶Ibid.

⁷Ibid, 18.

⁸Croome, *Reshaping the World Trading System*, 12.

⁹Ibid, 13-14.

developing countries found developments inexorably moving toward another trade round despite reservations from countries like Brazil, Malaysia and Egypt over the need for a new round of trade negotiations.¹⁰

In April 1985, meetings began to determine whether GATT should launch a new trade round and, if yes, what the round should focus on. By now, the G-7 decided to push for negotiations and that it ‘should be in 1986.’¹¹ The U.S. was particularly adamant, stating it would ‘go ahead with a conference outside the GATT’ if necessary.¹² Another meeting convened by the Swedish Trade Minister in Stockholm sought to engineer a consensus between developing and developed countries on negotiations that would focus on goods and services, side-by-side. Still unconvinced, India pushed to postpone negotiations until prior ‘confidence-building measures to restore credibility to the trading system’ were undertaken.¹³ New Delhi wanted a ‘firm and credible commitment, supported by appropriate legislative action’ that no new GATT-inconsistent restrictive trade measures would be introduced.¹⁴

But support for a round came from several ASEAN countries who called for negotiations to ‘begin expeditiously.’¹⁵ Since decisions were taken on the basis of consensus at GATT, prevailing differences prolonged the debate. To resolve the impasse, the U.S. invoked Article XXV that facilitated joint action by GATT members on important matters provided two-third majority support existed.¹⁶ Convinced that a majority of GATT member states wanted a new trade round, Washington requested a meeting of GATT’s highest body – the Session of Contracting Parties.¹⁷ The special session, convened in late September 1985, reached agreement on a ‘preparatory process on the proposed new round of multilateral trade negotiations.’¹⁸ Uruguay was picked as the host country to demonstrate the importance of developing countries to the exercise.¹⁹

¹⁰Ibid.

¹¹Ibid.

¹²“GATT Talks: U. S. Threatens India,” *The Times of India*, Nov 17, 1985, 1.

¹³Ibid.

¹⁴“India for Stress on GATT List,” *The Times of India*, Apr 24, 1986, 6.

¹⁵Croome, *Reshaping the World Trading System*, 22-27.

¹⁶Ibid.

¹⁷Ibid.

¹⁸Ibid.

¹⁹Ibid, 25.

The winnowing down of issues to negotiate at the round proved difficult. Washington hoped to widen the trade ambit from a singular focus on just goods.²⁰ Three new issues were flagged for consideration – trade in services, intellectual property rights and trade related investment measures. For most developing countries, this course was unprecedented since GATT principles, particularly trade liberalisation, stood to be applied to service industries for the first time. This prospect meant that issues like finance, insurance, culture, tourism and communications governed by domestic laws would enter the trade fold and be subject to GATT principles.²¹ Firmly against this prospect, India wanted negotiations to focus only on goods without wading into issues like services that were ‘alien to the jurisdictional competence of the General Agreement.’²² Shiv Shankar, Indian Minister of Commerce, pushed for trade in services to be removed from the agenda. For Shankar, there was a fear that “once services were brought into the GATT, the leverage of trade in goods would be used to secure concessions in the area of services by the developed countries.”²³

Nonetheless, Indian trade officials negotiated all these issues, including agriculture, textiles, services, and intellectual property rights. Surprisingly, Indian trade officials arrived at negotiations to secure market access and reduce tariff levels and other subsidies for Indian firms keen to boost their export output. That India had been liberalising since the early 1980s conditioned the positions and concessions made by Indian trade officials on key issues at the Uruguay Round. Despite fervent opposition to matters like intellectual property rights and services, Indian trade negotiators managed to obtain sufficient adjustment periods before the new rules would become applicable to India. The final Uruguay Round Agreement consisted of more than sixty agreements including significant agreements on politically sensitive issues like agriculture, services, textiles and intellectual property rights. The final agreement also established the World Trade Organization (WTO) that entered into force on January 1, 1995 to replace GATT. India signed the Uruguay Round Agreement after negotiations and became a signatory to the WTO soon thereafter.

²⁰Ibid.

²¹Services are considered as intangible when compared to tangible goods and commodities that were easier to trade. The definition that most practitioners used came from T.P. Hill (1977) who defined services as an activity that is consumed or used as it is produced. See T. Peter Hill, “On Goods and Services,” *Review of income and wealth* 23, 4 (1977): 317.

²²Ibid.

²³“India Refuses to Sign GATT,” *The Times of India*, Dec 5, 1986, 1.

Puzzle – India’s Uruguay Round Behaviour

India’s behaviour at the Uruguay Round is puzzling for one reason. When GATT officials debated the possibility of a new trade round, Indian trade officials were vehemently opposed. Indian officials questioned the need for a new round since GATT, in their view, was yet to deliver previous market access concessions. Since the end of the Tokyo Round in 1979, developed countries used protectionist measures to shield their economies from foreign goods despite promising to uphold market access commitments. Once the Uruguay Round negotiations were confirmed, Indian trade officials worked through the G-24 to limit negotiations to only cover trade in goods, away from emergent issues like intellectual property rights, investment rights and trade in services. On these three issues, India’s unwillingness to consider them grew out of a desire to protect strategic domestic industries from liberalisation. But India’s reticence on trade goes back to the GATT’s establishment. Over the years, Indian interactions had largely been defensive and cautious, given reservations over how GATT functioned and domestic preoccupations over international trade as a lever to develop the economy.²⁴ Despite reservations before the round, Indian trade officials entered negotiations with a desire to secure additional market access on a range of goods including textiles and agriculture and proved willing to consider intellectual property rights and trade in services. Why did Indian officials consider these issues at the Uruguay Round and ratify a range of agreements soon thereafter? To explain why India ratified the Uruguay Round trade agreement, I focus on why the Ministry of Commerce found negotiations in India’s interest, at first, and how relevant business lobbies and associations representing Indian firms in particular industries influenced the positions taken by Indian trade negotiators on each of the key agreements signed at the trade round.

²⁴Narlikar, *The World Trade Organization: A Very Short Introduction*, 24.

Narrative - India and the Uruguay Round Trade Agreement

Rebooting India's Trade Policy

Until the late 1970s, India largely kept itself away from international trade. India's share of world trade fell from 2.2 percent in 1948 to 0.4 percent in 1980 and the ratio of exports to GDP declined from 7.3 percent in 1951 to 4 percent in 1972.²⁵ To revive exports, the Indian government enacted several reforms in 1976. Regulations on international financial transactions were relaxed.²⁶ Improved agricultural returns and the discovery of oil in the Arabian Sea reduced the import share of oil, allowing imports of machinery and related industrial items to rise.²⁷ The government also provided tax incentives to small and medium sized exporters.²⁸ Though New Delhi struggled to signal that India was open for trade, it was becoming evident that the ground was clearing for greater engagement with the international economy. Gary Pursell, a long-time follower of India's trade policy, affirmed that stating "the available data on imports and import licensing are incomplete, out of date, and often inconsistent. Nevertheless, whichever way they are manipulated, they confirm very substantial and steady import liberalization that occurred after 1977-78 and during 1980s."²⁹

Pro-trade measures were a function of a larger thrust to reform India's economy.³⁰ Trade, as mentioned, was a key component but the Indian government also targeted clearing other constraints that hamstrung economic growth. Production became a key priority for the Indian government.³¹ Capital controls were eased to allow companies to raise finances directly from the public.³² Despite changes, there was no

²⁵Srinivasan, *India in the World Trading System*, 32.

²⁶*Ibid.*

²⁷Arvind Panagariya, "India and China: Trade and Investment," in *Economic reform in India: challenges, prospects, and lessons*, ed. Nicholas Hope et al. (Cambridge, UK: Cambridge University Press, 2013), 123.

²⁸*Ibid.*, 233.

²⁹Gary Pursell, "Trade policies in India," *National trade policies* (1992): 432-433.

³⁰A voluminous literature has formed around economic reforms that fueled India's growth since the 1980s. See Atul Kohli, "Politics of Economic Growth in India, 1980-2005," *Economic and Political Weekly*, Vol. 41, 13 (2006): 1251-1259; Atul Kohli, "Politics of economic growth in India, 1980-2005: Part II: The 1990s and beyond," *Economic and Political Weekly* Vol 41, 14 (2006): 1361-1370; Also see Montek S. Ahluwalia, "Economic reforms in India since 1991: Has gradualism worked?" *The Journal of Economic Perspectives*, 16, 3 (2002): 67-88.

³¹H.K. Paranjape, "New Statement on Industrial Policy," *Economic and Political Weekly*, Vol 15, 38 (1980): 1593.

³²*Ibid.*

clear effort to pare the size of government.³³ This objective was thwarted by the clear inability to extract revenue from a wide tax base and competing policy demands that required sustained state action.³⁴ As expenditures rose for priorities ranging from defence to infrastructure, the government focused on restructuring to ably service private-sector led growth path driven by production to raise revenue and drive growth.³⁵

These initiatives bore fruit directly and indirectly through signalling. With the private sector on board, the new growth strategy generated high rates of investment and marked improvements in investment efficiency.³⁶ In particular, the share of corporate sector investments in GDP rose to nearly 5 percent, accompanied by a marginal dip in public investment.³⁷ Manufacturing experienced a productivity surge with total factor productivity rising nearly 3 percent from 1981-1989, surpassing 'that of East Asia even in the first twenty years of the East Asian miracle.'³⁸ What made this trajectory more impressive was that it took place when the global economy was facing headwinds. Growth proved tepid worldwide, given the lag from oil shocks and stagflation in the 1970s; oil prices, problematically, remained high, intermittently denting India's fiscal balance.³⁹ Bottlenecks aside, sufficient positive reinforcement on growth from government and industry paved the way for tangible economic gains.

The growth-first strategy continued in the early 1980s. The Ministry of Commerce (hereafter MOC) became better aware of its own shortcomings vis-à-vis trade and how to further eliminate existing constraints on producers. The MOC formed several committees to recommend policy options vis-à-vis international trade. The first was the Alexander Committee that examined India's import and export regime. In its report, published in 1978, the committee recommended an overhaul of India's import

³³T.N. Srinivasan and Suresh D. Tendulkar, *Reintegrating India with the world economy* (Washington, D.C.: Peterson Institute Press, 2003), 23.

³⁴Kohli, *Politics of Economic Growth in India*, 1256.

³⁵Ibid.

³⁶Arvind Virmani, *India's Economic Growth: From Socialist Rate of Growth to Bharatiya Rate of Growth*, Working Paper No 122 (New Delhi: Indian Council for Research on International Economic Relations, 2004)

³⁷Kohli, *Politics of Economic Growth in India*, 1258.

³⁸Dani Rodrik and Arvind Subramanian. *From "Hindu growth" to productivity surge: the mystery of the Indian growth transition* (Washington, DC: National Bureau of Economic Research, 2004), 8.

³⁹Ibid.

control procedures through a ‘comprehensive de-licensing of import measures.’⁴⁰ The report recommended granting liberal access to imports for exporters and strengthening the ‘institutional infrastructure for export promotion,’ which also required an extensive overview of how industrial, fiscal and monetary policies affected trade.⁴¹ These conclusions were endorsed by the Abid Hussain Committee on Trade Policies in 1985 that advised the government to strike a balance between protection and competition, indicating that an over reliance on the former was counterproductive to the economy writ large.⁴² The committee pushed for tariffs to be lowered for goods that serve as inputs to exportable goods. The report emphasised a clear need for India to adopt a ‘rational export promotion’ policy.⁴³ Presciently, the Hussain committee recognised and stressed the role of technology in trade and development which led them to recommend relaxing existing controls to foster technology transfer.⁴⁴

Heeding some recommendations, New Delhi adopted several policies to ease constraints on trade from 1984. Under a new Import-Export policy, the MOC pledged to ‘provide a further incentive to exports, allow local industry to expand its access to foreign capital goods and technology and to simplify import procedures.’⁴⁵ Import licensing requirements were removed, except for certain consumer goods; measures were also taken to further simplify the import tariff architecture.⁴⁶ The general thrust was to liberalise imports of capital goods and raw materials that were inputs for exports and reduce tariffs on these imports. The MOC also committed ‘to provide industries, especially in the small scale sector, easier and more regular access to their requirements of inputs in order to maximise their output and improve their productivity, to provide a stimulus to those engaged in exports and, in particular to manufacturing units contributing substantially to the export effort.’⁴⁷ Resultant export promotion measures included a new passbook-scheme of duty free imports for certain exporters, reduction of corporate taxes, reduction in interest rate on export credits, allowance to retain foreign exchange receipts for export promotion, remission of excise duties and additional

⁴⁰P.C. Alexander, *Report of the Committee on Import-Export Policies and Procedures* (New Delhi: Ministry of Commerce, 1977)

⁴¹Ibid.

⁴²Abid Hussain, *Report of the Committee on Trade Policies*. (New Delhi: Ministry of Commerce, 1984)

⁴³Ibid.

⁴⁴Ibid.

⁴⁵Partha Pratim Pal, *India and International Trade* (New Delhi: Oxford University Press, 105-108)

⁴⁶Ibid.

⁴⁷Ibid.

interest rate incentives on government-sponsored loans for large exporters.⁴⁸ These measures expanded the Indian trade basket; on the menu for export in the mid-1980s were commodities like tea, jute and cotton but also textiles, machineries and consultancy services. Yet, despite reforms, the Indian economy underperformed; export volumes produced by exporters grew at a modest pace of 6.5 percent through the 1980s.⁴⁹ The drift effectively meant that external limitations constrained Indian exports.

The external problem stifling Indian exports, as highlighted earlier, was protectionism. Protectionism was largely the legacy of the 1973 Tokyo Round.⁵⁰ In Tokyo, tariffs were reduced on thousands of products. Discussions deepened on non-tariff barriers that led to the adoption of codes on reducing subsidies and duties, revising anti-dumping practices, product standards, government procurement and customs valuations.⁵¹ However, the Tokyo round of negotiations occurred at a time of crisis with rising global unemployment and inflation. To soften its impact, developed countries used special arrangements and exceptions like subsidies, safeguards and voluntary export restrictions to regulate trade between developing countries on key goods including textiles and agriculture.⁵² Developing countries were dismayed by these ad-hoc arrangements that reduced foreign market access for their exports.⁵³ The situation had become difficult since their exports, especially products like garments, agricultural commodities and electronic products, were crucial in terms of trade for developing countries. India's trade output was scuppered by subsidies and non-trade barriers in two particular areas - textiles and agriculture. The MOC became more sensitised to these barriers just as they were adopting several moves to increase the trade outputs of these two sectors.⁵⁴

India's Textile Trade

Textiles formed a key part of India's trade basket. The industry's structure consisted of

⁴⁸Panagariya, *India and China: Trade and Investment*, 125.

⁴⁹T.N. Srinivasan, *India in the World Trading System*, 37.

⁵⁰Ibid.

⁵¹Ibid.

⁵²"Multifibre Arrangement: 1974-1994." WTO, 2008, accessed December 1, 2015.

https://www.wto.org/english/tratop_e/textile/textintro_e.htm.

⁵³Croome, *Reshaping the World Trading System*, 42.

⁵⁴Former Indian Ministry of Commerce official.

large-scale cotton mills, small-scale decentralised operations and public sector mills that focused on spinning, weaving, fabric-processing and garment making.⁵⁵ From 1975, the industry was riding a wave increasing collective output of fabric and apparel by 30-40 percent.⁵⁶ To propel growth, the Indian government unveiled a new textile policy in 1985 that removed restrictions on the textile industry, particularly constraints on raw materials and technologies to increase output.⁵⁷ A new financing scheme was introduced to assist ailing textile mills boost production.⁵⁸ Slowly, textile output increased and so did demand from home and abroad.⁵⁹ Yet, the industry had problems – both domestic and international. Despite steady returns, competition with other developing countries laid bare lingering operational difficulties. Productivity was low as was the absorption rate of new technologies and practices.⁶⁰ These deficits compromised product quality which, in turn, reduced potential business opportunities. But existing slack was also caused by another factor - reduced international market access due to the Multi-Fibre Arrangement (hereafter MFA).

Through the MFA, developed countries imposed quotas on textile and apparel exports from developing countries.⁶¹ Introduced in 1974 as a temporary measure to allow developed countries adjust to textile imports from developing countries, it evolved to become a range of country-specific and product-specific quotas on various textile products.⁶² Exporting countries retained control over administration through quotas allocated to firms on the basis of past export performance.⁶³ Quotas, however, were negotiated bilaterally with importers having more sway over quota specifications based ‘on the sensitivity of the products for its domestic industry.’⁶⁴ These

⁵⁵World Bank, *India Cotton and Textile Industries: Reforming to Compete* (Washington, D.C: World Bank, 1999), 2.

⁵⁶Ibid.

⁵⁷This policy was a supplement to the larger Import-Export policy that sought to eliminate snags stalling production. See Mausumi Kar, *Indian Textile and Clothing Industry: An Economic Analysis* (New Delhi: Springer, 2015), 12.

⁵⁸World Bank Group, *India Cotton and Textile Industries*, 48.

⁵⁹Ibid.

⁶⁰Ibid, 43.

⁶¹“Multifibre Arrangement: 1974-1994,” https://www.wto.org/english/tratop_e/texti_e/textintro_e.htm.

⁶²“The Textile Trade, Developing Countries and the Multifibre Agreement,” Overseas Development Institute, Accessed December 7, 2015, <http://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/6604.pdf>

⁶³R. Chadha et al, “Phasing out the Multifibre Agreement: Implications for India.” *Global Trade Analysis Project (GTAP) at Purdue University*, (Indianapolis: Purdue University, 1999), 4.

⁶⁴“Multifibre Arrangement: 1974-1994. World Trade Organization. https://www.wto.org/english/tratop_e/texti_e/textintro_e.htm. Accessed Mar 1, 2016

specifications constrained trade since they were determined ‘when surges in imports of particular products caused, or threatened to cause, serious damage to the industry of the importing country.’⁶⁵ By 1981, the U.S. brought ‘more than 80 percent of its total imports of textile and apparel products’ under the MFA, negotiating separate bilateral quota agreements with exporting countries.⁶⁶ This situation was unprecedented since textiles made up roughly 29 percent of total manufacturing goods exported from non-oil developing countries and the entire trading arrangement was not governed by GATT rules.⁶⁷

Indian textile exports were affected by these quotas. Most of India’s textile exports were shipped to three markets – the U.S, E.C. and Japan; quotas, in fact, covered nearly 97 percent of Indian textile and garment exports to these countries in 1987.⁶⁸ With the U.S., non-tariff barriers against India were ‘the highest in the textile group’ covering nearly 75 percent of garment and apparel shipments.⁶⁹ 51 percent of India’s exports to Japan were subject to various non-tariff barriers including the MFA.⁷⁰ The arrangement served as a clear hindrance for Indian textile exporters. In fact, the growth rate of India’s textile exports from 1985-1988 was higher than quotas allowed under bilateral MFA agreements.⁷¹ Exports to these specific markets faced binding constraints even as trade volumes rose and this situation existed alongside underused or unused quotas for certain textile goods where India was uncompetitive.⁷²

The MFA also had internal implications on India’s textile sector. From 1986, small-scale garment exporters, having exhausted quotas, stalled plans to expand capacity and output that, in turn, restrained innovation as firms eschewed investment on

⁶⁵“World Trade Organization. Textiles: Back in the Mainstream,” WTO, 2011, Accessed December 4, 2015, https://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm5_e.htm.

⁶⁶Kala Krishna and Ling Hio Tan, “The multifibre arrangement in practice: challenging the competitive framework,” *East Asian Trade after the Uruguay Round*, Cambridge (1997): 2-3.

⁶⁷Bhagirath L. Das, “The GATT Multi-Fibre Arrangement,” *Journal of World Trade* 17, 2 (1983): 98.

⁶⁸In the 1980s, the bulk of Indian textile exports went to the E.C (41.5 percent), USA (16.5 percent), and Eastern Bloc countries led by the Soviet Union (12.5 percent). This situation forced India to diversify its foreign customers including new countries like Australia, New Zealand, and Canada, South Korea, Malaysia and cities like Dubai, Singapore, Hong Kong, Bangladesh, Mauritius, Sri Lanka, and Taiwan. However, trade here was negligible compared to the main export markets (E.C., U.S. and Japan). See World Bank, *India Cotton and Textile Industries*, 4.

⁶⁹Ibid.

⁷⁰Ibid.

⁷¹Rajiv Kumar and Sriram Khanna, “India, The Multifibre Arrangement and the Uruguay Round,” in *Textiles Trade and Developing Countries: Eliminating the Multifibre Arrangement in the 1990s* ed. Carl Hamilton. (Washington, D.C: World Bank Development Group, 2001), 209.

⁷²Das, *The GATT Multi-Fibre Arrangement*, 102.

in-house machinery and equipment.⁷³ India had the lowest levels of investment per worker (\$389) in the global garment industry in the mid-1980s; though low investment kept wages low, productivity gains were hard to find.⁷⁴ Expensive overheads, coupled with high managerial costs decreased productivity which, in turn, slowed mechanised production.⁷⁵ Instead of regulating production, the MFA hampered innovation, creating disincentives for firms to expand output. A World Bank study on the subject claimed that the MFA gave ‘misleading signals to different segments of the global garment industry and created long-term distortions in the exploitation of countries comparative and competitive advantage in textiles and garments.’⁷⁶ By 1987, 77 percent of Indian firms engaged in garment and apparel trade called for a quota-free trading environment; Indian exporters felt that with a level playing field, they would be better equipped to compete with firms in China, Bangladesh, Pakistan and Sri Lanka given competitive advantages in labour and wages.⁷⁷ The displeasure was conveyed to trade officials at the MOC who were working with the textile industry to address constraints.⁷⁸

India's Trade in Agriculture

Likewise, India's trade in agriculture proved sluggish in 1985. For decades, agriculture had dominated India's trade basket, constituting a share of 44 percent in 1965 but this share dropped to 25 percent in 1974 as the focus turned to food self-sufficiency.⁷⁹ To achieve self-sufficiency, the government adopted a range of controls on agriculture to ensure domestic availability and maintain price stability.⁸⁰ Inputs to increase yields like

⁷³Kumar and Khanna, *The Multifibre Arrangement and the Uruguay Round*, 195.

⁷⁴Ibid, 198.

⁷⁵For larger firms that had more capital and used advanced machines and technologies, productivity and growth levels were higher but they were encumbered by production limitations from the MFA. See Ibid, 196-198.

⁷⁶Ibid, 196.

⁷⁷However, the ability of the Indian textile and garment industry to compete with other South and Southeast Asian countries rested on Indian firms becoming internationally competitive and industrialised countries not using barriers to limit textile exports. See Betina Dimaranan, Elena Ianchovichina, and Will Martin, “Competing with giants: who wins, who loses?” *Dancing with Giants: China, India, and the Global Economy* (2007): 76.

⁷⁸Former Indian GATT negotiator. Interview by author. New Delhi, February 5, 2016.

⁷⁹Srinivasan and Tendulkar, *Reintegrating India with the world economy*, 19.

⁸⁰Stagnant grain stocks in the mid 1950s led to a crisis that prompted a rethink in agricultural policies. With little foreign exchange to pay for food imports at market prices, India sought concessional imports under U.S. Public Law 480. The food crisis led to the Green Revolution, a historic initiative to increase domestic cereal production. See T.N. Srinivasan, *Agriculture and Trade in India and China: Policies and*

seeds, fertilizers, pesticides, electricity and water, increased with costs subsidised. Access to institutional financing improved supplementing informal credit.⁸¹ These policies, aided by a rise in private investment on mechanised technologies, boosted total agricultural output.⁸² In 1981, India produced 10 percent of the world's agricultural output despite accounting for just 1 percent of world trade in agriculture. The success of this strategy resulted in a 'dwindling share of India in world agricultural trade.'⁸³ Nevertheless, India had become a key producer of commodities like rice, jute and groundnuts but also wheat, sugar, coffee, tea, cotton and tobacco.⁸⁴ Yields consistently grew for these commodities. But had these commodities been more accessible to international markets, a former Indian trade negotiator added, 'India would have had an outsized impact on the global agricultural market.'⁸⁵ For this prospect to be realised, Indian commodities would have had to become competitive or have prices lower than world prices.

And the conditions for that prospect had become propitious. Nayyar and Sen identify that by the mid-1980s 'India's domestic agricultural prices were diverging from world prices' and in a position to capitalise through freer trade.⁸⁶ In fact, the terms of trade between agriculture and manufacturing in India tilted in favour of agriculture when the opposite was happening in the world economy with developing countries forced to institute structural adjustment policies that throttled their agricultural sectors.⁸⁷ For rice, cotton, tobacco and various fruit products, Indian prices were lower than world prices; tea and jute, major components of the Indian trade basket, matched world prices.⁸⁸ With competitive prices, agricultural commodities were poised to reap windfalls for farmers and the Indian government - should international trade in agriculture liberalise. Freer trade was expected to increase domestic prices of key crops,

Performance since 1950. An International Center for Economic Growth Publication (Washington, D.C: ICEGP, 1994), 82-84.

⁸¹Ibid, 104-105.

⁸²The use of chemical fertilizers increased exponentially from virtually nothing in 1950 to about 62 kilos per hectare in the late 1980. See Pranab Bardhan, *The Political Economy of Development in India: Expanded Edition* (New Delhi: Oxford University Press, 1999), 11-12.

⁸³Deepak Nayyar and Abhijit Sen, "International trade and the agricultural sector in India," *Economic and Political Weekly*, Vol. 29, 20 (1994): 1191.

⁸⁴In fact, in the cases of jute, groundnuts, sugarcane and rice, India's share of world output exceeded 20 percent in 1987. See Srinivasan, *Agriculture and Trade in India and China*, 101.

⁸⁵Former Indian GATT negotiator.

⁸⁶Nayyar and Sen, *International trade and the agricultural sector in India*, 1191.

⁸⁷In India, this was driven by a marked depreciation of the rupee and the slowing of manufacturing as a result of protectionism and competitiveness problems. See Pal, *India and International Trade*, 107.

⁸⁸Nayyar and Sen, *International trade and the agricultural sector in India*, 1191.

generating profits for farmers that could possibly lead to a reduction in the input subsidies provided by the government, mainly fertiliser and irrigation.⁸⁹ And an increase in agricultural prices would further incentivise farmers to boost production and investment.

The MOC gradually realised that clear opportunities existed in agricultural exports. Moving gingerly from the self-sufficiency focus, the ministry allowed farmers to export commodities like groundnut, cloves and cooking oil.⁹⁰ Export targets were next set for a range of agricultural commodities.⁹¹ Commerce Secretary Abid Hussain emphasised that agricultural exports were a priority for the government and so were linkages between industry and agriculture to meet export targets.⁹² In 1986, the Cabinet Committee on Economic Affairs (CCEA) cleared constraints that allowed Indian producers to set up joint ventures abroad to encourage ‘foreign companies market our agro products.’⁹³ The ground was gradually clearing for open agricultural trade.

But for Indian farmers to capitalise from these measures, greater international market access was needed, especially in developed countries that had become unabashedly protectionist vis-à-vis agriculture.⁹⁴ Worldwide, agriculture was in crisis; prices were in free fall from commodity booms in the 1970s.⁹⁵ This scenario refocused attention on self-sufficiency and food security, not trade. Protectionism ensued across the industrialised world alongside export promotion that produced a net surplus in staple commodities.⁹⁶ Food prices in the developed world were nearly twice as high as international prices; trade policy was used to sustain price-support policies and transfer income to agriculture.⁹⁷ The U.S and E.C. were at the forefront of this practice.⁹⁸ For

⁸⁹Ibid.

⁹⁰“Private Sector Export of Farm Products Hailed,” *The Times of India*, November 11, 1983, 10.

⁹¹“Export body for Agricultural Items Stressed,” *The Times of India*, January 4, 1982, 10.

⁹²“Farmer Vital Link in Export Drive,” *The Times of India*, Aug 31, 1983, 5.

⁹³Ibid.

⁹⁴Srinivasan, *Agriculture and Trade in India and China*, 101.

⁹⁵Ibid.

⁹⁶Amrita Narlikar, *International Trade and Developing Countries: bargaining coalitions in the GATT & WTO*. (London: Taylor & Francis, 2003), 128-130.

⁹⁷Kym Anderson, Yujiro Hayami, and Aurelia George Mulgan, *Political economy of agricultural protection*. Australia-Japan Research Centre, (Canberra: Australian National University, 1986), 8.

⁹⁸The EC established the European Common Agricultural Policy and U.S. the Export Enhancement Program that institutionalised protectionism.

developing countries, however, this protectionism rankled given sizeable export earnings from trade in agriculture.⁹⁹

Another concern was the GATT's actions on agriculture. Since GATT's founding, agriculture was removed from its remit. The U.S., E.C and Japan ring-fenced domestic agricultural policies from international trade considerations. Exemptions from GATT on agriculture led to waivers being granted for developed countries to openly subsidise domestic farm sectors. In fact, support for farmers in the United States increased from \$2.7 billion in 1980 to \$25.8 billion in 1986. In Europe, governments spent \$22 billion on farm support in 1986, up from \$6.2 billion in 1976.¹⁰⁰ Levels of protection had increased from the Tokyo Round in 1973. Moreover, key trading states like the U.S, France and Japan evinced no desire in demonstrating their commitment to free market principles when it came to agriculture.¹⁰¹ For developing countries like India, adherence to multilateral trade rules by major economies in agricultural trade proved critical given the effect these states had on agricultural trade flows and world prices.¹⁰² It became critical to lever GATT to reverse the protectionist impulses of critical trading countries and secure additional market access for agricultural products.

India's Trade in Services

Like agriculture and textiles, services emerged as an issue of interest for Indian trade officials. In 1981, India's service industry covered an entire spectrum of activities in fields like engineering, industries, electronics, drugs and pharmaceuticals, computer software and urban management, etc.¹⁰³ Given the diversity, Indian trade officials signalled a desire to become better aware of how trade affected their multifaceted services industry. Research was conducted on trade in services over the next three years

⁹⁹In fact, more than 65 percent of developing countries' agricultural export revenues came from food exports to OECD countries. See, Alberto Valdes, "Agriculture in the Uruguay Round: interests of developing countries," *The World Bank Economic Review* 1, 4 (1987): 573.

¹⁰⁰*Ibid*, 573.

¹⁰¹*Ibid*.

¹⁰²Affected countries sought to address this issue through the 1985 Leutweiler Group formed to study the international trade system. The group's recommendations included 'clearer and fairer rules for agricultural trade, with no special treatment for particular countries or commodities' and 'greater integration of developing countries into the trading system, with all the accompanying rights and responsibilities.' See Valdes, *Agriculture in the Uruguay Round: interests of developing countries*, 573.

¹⁰³"Rapid Growth of Consultancy Exports," *The Times of India*, May 16, 1982, 9.

by the Indian Institute of Foreign Trade (IIFT), commissioned by the MOC.¹⁰⁴ The ensuing report cautioned the government against negotiating trade in services at GATT, indicating that, for now, the best strategy was ‘a holding operation.’¹⁰⁵ Nonetheless, the report urged the government to interact with developing countries on the matter, share information on trade in services and emphasise labour services at GATT discussions.¹⁰⁶

Externally, Indian trade officials approached services with caution but, internally, there was debate over whether India could materially benefit from trade in services given the policy emphasis on developing domestic service industries.¹⁰⁷ Prime Minister Rajiv Gandhi’s visit to the U.S. in 1985 triggered discussions on bilateral commercial and trade exchanges. American firms and companies travelled across India in 1986 and 1987 to explore opportunities while Indian business representatives did the same across the U.S.¹⁰⁸ Henry Cahill, U.S. Consul General in Bombay, led several American delegations to explore trade opportunities in fields like ‘heavy construction, computer consultancy and software, medical services, hotel and tourism management, graphics, engineering design and repair maintenance’ and determine how both countries ‘could pool their talents to export their services on a global basis.’¹⁰⁹

Yet, the official government position on trade in services at GATT did not change. Indian trade officials were wary of bringing in service-related activities into the GATT, fearing a possible diminution of national control in those areas.¹¹⁰ Even as GATT member states gathered at Punta del Este, Uruguay in September 1986 to hammer out a negotiating mandate for the Uruguay round, India’s opposition to trade in services remained. Then, pressure from the U.S ramped up against countries resisting consideration of trade in services at GATT. US Trade Representative Clayton Yeutter threatened the use of Section 301 of the newly passed U.S. Trade Act (1974) to get recalcitrant countries to negotiate a multilateral framework on trade in services or risk

¹⁰⁴Stephen McDowell, *Globalization, liberalization and policy change: A political economy of India's communications sector* (London: Macmillan, 1997), 126.

¹⁰⁵*Ibid.*

¹⁰⁶*Ibid.*

¹⁰⁷Former Indian GATT negotiator.

¹⁰⁸“Good Scope for Indo-US Trade, tie-up in Services,” *The Times of India*, September 6, 1985, 10.

¹⁰⁹*Ibid.*

¹¹⁰Former Indian GATT Negotiator.

being sanctioned by the U.S.¹¹¹ In addition, Washington threatened to remove concessions granted through the General System of Preferences (GSP) to GATT states objecting to negotiate trade in services.¹¹²

Yeutter's threat created a flutter in New Delhi given the government's focus on information technology and electronic services but equally for Indian goods exported to the U.S. In 1986, the U.S. accounted for 19 percent of Indian exports and 10 percent of its imports.¹¹³ Also, the U.S. was the leading source, by far, of foreign collaboration in services with Indian firms; U.S. foreign investment in 1985-86 was greater than inflows over the previous decade, amounting to a third of India's total FDI that year.¹¹⁴ That year, the Federation of Indian Export Organisations (FIEO) envisaged a 'growth rate of 50 percent per annum in consultancy exports by 1989-90 generating valuable export earnings for industry and government.¹¹⁵ The implications of U.S. sanctions through Section 301 were thus profound.

Trade scholar Jagdish Bhagwati called for a shift in India's services approach, prodding Indian officials to yield on the matter.¹¹⁶ There was no guarantee, Bhagwati added, that other developing countries would continue to resist given self-interest; dithering, he claimed, on India's part would only intensify American resolve to deepen retaliatory action.¹¹⁷ The MOC grew to accept that the matter was becoming a *fait accompli*; trade officials realised that by agreeing to consider the issue, India could, at least, influence rules in service areas where it had a clear advantage like labour services.¹¹⁸ Ultimately, India relented and as did other developing countries that saw negotiations at GATT as an antidote to American protectionism. But developing countries were still mixed on whether negotiations should take place at GATT, given

¹¹¹Juan A. Marchetti and Petros C. Mavroidis, "The genesis of the GATS (General Agreement on Trade in Services)," *European Journal of International Law* 22, 3 (2011): 702.

¹¹²During the 1979 Tokyo Round, developed countries agreed to adopt a legal mechanism that allowed goods from developing countries to be imported at preferential rates lower than that of other developed countries. This was the GSP. See, *The Generalized System of Preferences: Nations More Favoured Than Most*, 8 LAW & POL'Y INT'L. Bus. 783, 1976: 17.

¹¹³Rajiv Kumar, "Opportunities and Asymmetries in Indo-American Economic Relations," in *Asian Security: Old Paradigms and New Challenges*, ed. Jasjit Singh (New Delhi: Lancer Books, 1991), 200.

¹¹⁴*Ibid.*

¹¹⁵"Steady Consultancy Exports Foreseen," *The Times of India*. Oct 24, 1984, 10.

¹¹⁶Jagdish Bhagwati, "Splintering and disembodiment of services and developing nations," *The World Economy* 7, 2 (1984): 133-135.

¹¹⁷*Ibid.*

¹¹⁸Former GATT negotiator.

qualms over the application of GATT principles, especially Most Favoured Nation (MFN) on trade in services.¹¹⁹ MFN meant all foreign services-related companies would be treated as domestic companies when they entered a country to set up shop. As a compromise, member states agreed to consider services at negotiations but ‘on a parallel track’ outside the formal GATT framework.¹²⁰

Domestic Liberalisers

Indian negotiators were faced with three key problems at Uruguay Round negotiations – textiles, agriculture and services. Shaping the MOC’s understanding of these problems were domestic groups affected by distortions and restrictions in the international trade system. These groups either suffered financially from opportunities lost through distortions or had considerable benefits in store, should constraints be removed.

With respect to textiles, India had a natural comparative advantage in cotton and cotton-based fibres. Despite problems, there was a concerted effort by textile exporters to boost output from 1981. The Federation of Indian Export Organisations (FIEO) and the Federation of Indian Chambers of Commerce (FICC) pushed various export promotion councils to boost garment and apparel exports given measures taken by the government to liberalise import of inputs.¹²¹ These councils hailed the government’s focus on trade liberalisation and export promotion and pushed trade officials to secure additional market access.¹²² Moreover, the estimated financial gains from greater textile trade, without the MFA, were sizeable. In 1986, average textile imports to developed countries amounted to \$66 billion with a third of that - \$21 billion from the United States, India’s top exporting market for textiles. Canonero and Srinivasan (1995) estimated India’s bilateral textile trade with the U.S and E.C could increase by 2.6 and 4.3 percent once the MFA was phased out generating \$800 million in 1986 alone.¹²³ Leading trade scholar Fred Bergsten estimated that increased trade would result in a

¹¹⁹Croome, *Reshaping the world trading system*,

¹²⁰“GATT to Start New Round,” *The Financial Times*, Nov. 29, 1985, 3.

¹²¹Some of these councils include the Cotton Textile Export Promotion Council, All India Manufacturers Association, Woolen Textile Machinery Manufacturer’s Association, Indian Cotton Mills Federation, etc. See “New Ex-Im Policy will reduce Trade Gap,” *The Times of India*, April 16, 1986, 1.

¹²²*Ibid.*

¹²³T.N. Srinivasan and G. Canonero, *Preferential agreements in South Asia: Theory, empirics and policy* (New Haven, CT: Yale University, 1995)

0.5-4.5 percent rise in South Asia's GDP with much of that accruing to India given competitive advantages in labour and wages compared to other developing countries.¹²⁴ For India, the MFA had outgrown its utility despite benefits accrued to textile-importing countries; however, the arrangement had become difficult to dislodge given the leverage developed countries had at GATT that sustained the arrangement. Satish Modi, Chairman of the Indian Cotton Mills Federation (ICMF), affirmed that should the government assist in ridding the MFA, it would 'stimulate higher utilisation of capacity in domestic industry' and enable 'textile exports to reach greater heights in the coming years.'¹²⁵ Clear opportunities in textile trade made MFA abolition vital for Indian trade negotiators at GATT.

Agriculture was another key priority. Ramu Deora, Federation of Indian Export Organisations (FIEO) President, lauded the policy reforms made to liberalise agricultural production and urged the government to further improve trade access for domestic commodities given India's "infinitesimal" share in world agricultural trade.¹²⁶ Potential for greater agro-trade, Deora added, was immense given agricultural growth rates; in fact, the growth rate in agriculture was 3 percent from 1981-1991, which was nearly double the rate of the previous decade from 1971-1981 despite facing chronic bottlenecks in terms of infrastructure and logistics.¹²⁷ However, the MOC did not consult with local farmers' organisations or agro-processing industries in the lead up to negotiations at the Uruguay Round. These groups were represented by larger industry and export organisations like FIEO and FICC in discussions with trade officials.¹²⁸ Nonetheless, FIEO did make a case to trade officials that Indian agriculture had become highly export competitive given their prices and freeing trade would unleash its growing export potential.¹²⁹

The third priority was trade in services. Early on, the MOC was reticent toward considering services at GATT, given reservations over how rules would be framed and

¹²⁴Fred. C. Bergsten and William R. Cline, "Trade policy in the 1980s: an overview," *Trade Policy in the 1980s*, 71 (1983): 59-98.

¹²⁵"Distinct Thrust in New Export-Import Policy," *The Times of India*, Apr 8, 1988, 20.

¹²⁶"Incentives for Agro Exports Welcomed," *The Times of India*, September 25, 11.

¹²⁷R.S. Jalal and Nandan Singh Bisht, *Emerging Dimensions of Global Trade: Discussions on Trade Related Policies* (New Delhi: Sarup & Sons, 2006), 92.

¹²⁸M.D. Ingco, *Agriculture, Trade, and WTO in South Asia* (Washington, D.C: World Bank Publications, 2003), 190.

¹²⁹"Incentives for Agro Exports Welcomed," *The Times of India*, September 25, 1988, 1.

if they would cover a whole range of domestic service sectors. The MOC commissioned research by the Indian Institute of Foreign Trade (IIFT) to better understand the position of Indian services companies and how international trade policies affected their prospects just as it unveiled a new technology policy to incentivise firms in the services industry. Groups like the Indian-American Chamber of Commerce (AICC), Confederation of Engineering Industry (CEI) and Association of Indian Engineering Industry (AIEI) paved the way for Indian services companies to discuss partnerships with American firms.¹³⁰ Their initiative was supported by the government's 1986 software policy that emphasised the integration of domestic firms with international firms focusing on computers and software. This policy was in response to the growing global demand for data processing and software services 'which presented itself as a real opportunity for Indian companies to sell their services abroad.'¹³¹ Opportunities appeared to be widening for Indian services firms abroad, which rendered market access crucial for their growth.

The MOC's commissioned report on trade in services advised Indian trade officials to reassess India's position on services, given on-going domestic economic policy changes to assist consultancy services firms whose output was on the rise. The report also urged the government to seize a 'golden chance to possibly rearrange the internal priorities of India both of substance and tactics.'¹³² This call was endorsed by a number of trade and commercial associations including the Associated Chamber of Commerce (ACC), Confederation of Engineering Industry (CEI) and the emergent National Association of Software and Service Companies (NASSCOM), some of whom represented firms in the rising services industry.¹³³ In fact, the combined Indian services industry had acquired a market size constituting roughly 28 percent of Indian exports in 1985, involving a sizeable contingent of educated professionals in several fields.¹³⁴ The sector grew from 24 percent of Indian domestic income in 1951 to 39 percent in 1986-7 and exports of professional technical services grew at an annual rate of 12 percent from

¹³⁰In April 1974, IEA and EAI merged to form the Association of Indian Engineering Industry (AIEI). In 1991, this outfit was rechristened as Confederation of Indian Industry (CII). See "Deaver's Trip to India and a Matter of Trade," *The Times of India*, May 5, 1986, 1.

¹³¹McDowell, *Globalization, liberalization and policy change*, 175.

¹³²Ibid.

¹³³Former Indian GATT negotiator.

¹³⁴Pramod. C. Verma, "India's international trade in services," *Indian Economic Journal* 44, 3 (1997): 105.

1974-1988.¹³⁵ In particular, the volume of software exports, a key growth industry, increased from \$26 million in 1985 to \$110 million in 1989, largely in the form of 'deputations, on-site consultancy, professional services, or body shopping.'¹³⁶ Prospects to augment this share existed through additional market access in developed countries. In fact, total world trade of US \$375 billion in services was identified by *The Technocrat* in September 1989 as 'a big cake in which the developing countries may also have a sumptuous bite if they play their cards dexterously.'¹³⁷

Indian trade officials approached Uruguay Round negotiations to secure market access in these areas – textiles, agriculture and services and, concurrently, protect domestic firms from external competition in these areas, given promising growth records over the past decade.

Underway in Geneva

Uruguay Round negotiations commenced in October 1986 in Geneva. Negotiations were split into two groups - Group of Negotiations on Goods (GNG) to cover trade in goods and Group of Negotiations on Services (GNS) to cover trade in services. Under GNG, sub-groups focused on fifteen subjects like textiles, agriculture, etc. Despite the addition of issues like services and intellectual property rights, member states still had to reduce tariffs and discuss non-tariff barriers to trade.¹³⁸

The Indian delegation arrived optimistic, looking to reverse trade restrictions in areas like agriculture and textiles, and cautious, not wanting to concede commensurate market access, in return. In fact, there was a pervading fear amongst the Indian negotiators that developing countries would have to reciprocate, in-kind, for market access concessions provided by developed countries.¹³⁹ Nonetheless, the Indian delegation was keen to secure greater access on textiles and agriculture as well as

¹³⁵McDowell, *Globalization, liberalization and policy change*, 112.

¹³⁶*Ibid.*

¹³⁷*Ibid.*

¹³⁸In fact, this proved to be a success of previous GATT trade rounds; industrialised countries cut import duties on manufactured items from 40 percent in 1950 to 5 percent at the Tokyo Round in 1979. But in certain sectors like textiles and clothing, pivotal for developing countries, trade restrictions remained.

See, Croome, *Reshaping the world trading system*, 12.

¹³⁹Former Indian GATT negotiator.

ascertain the growing interest around trade in services. India entered the round with an improving international trade position. Both India's trade deficit and total exports were moving in the right direction. To service exports, imports increased, particularly manufacturing inputs, chemicals and other machineries.¹⁴⁰ Indian exports to the U.S. doubled from 1980-1986 and total Indo-US trade increased from \$2 billion in 1979 to \$4 billion in 1986; these two trends secured India a positive trade balance with the U.S in 1983.¹⁴¹ Pushing onward, the Rajiv Gandhi government dispensed with quantitative restrictions to establish a clear structure of tariffs. 1986-1987 also saw a restructuring of the fiscal side alongside policies to simplify the tax regime, presenting investors a more stable and predictable policy environment.¹⁴²

Indian negotiators looked to advance this trajectory.¹⁴³ Given India's trade balance and priorities around textiles and agriculture, negotiators identified three restrictions for GATT to address - the Multi-Fibre Agreement, tariffs on Indian coffee and tea and the competitive subsidisation of food grain exports.¹⁴⁴ This agenda formed the initial focus for the Indian delegation led by officials from the MOC who were supported, when needed, by Indian diplomats.

Phasing out the MFA

India's most pressing concern was getting rid of the Multifibre Arrangement. Early on, India's chief negotiator S.P. Shukla flagged the need to 'see substantive progress in the area of trade in textiles and clothing, which has been subject to the long-standing derogation from GATT rules' through the MFA.¹⁴⁵ This scenario, Shukla stated 'embodied the very antithesis of differential and favourable treatment for developing countries' that had been at the heart of GATT.¹⁴⁶ Shukla called for the 'return of textile trade to the GATT rules' but this outcome, he argued, should be in accordance with the

¹⁴⁰"India's Foreign Trade Improves," *The Times of India*, April 4, 1987, 1.

¹⁴¹Rajiv Kumar, *Opportunities and Asymmetries in Indo-American Economic Relations*, 201.

¹⁴²Srinivasan and Tendulkar, *Reintegrating India with the world economy*, 19.

¹⁴³At a joint consultation with GATT-IMF conducted in 1987, Indian trade officials noted that improving market access for Indian exports through GATT was a critical priority. See GATT, *Report of the 1987 Consultation with India*, BOP/R/1968 (Stanford, CA: GATT, 1987)

¹⁴⁴GATT, *Statement by H.E. Mr. S.P. Shukla, Ambassador, Permanent Representative of India*, SR.43/ST/16 (Stanford, CA: GATT, 1987)

¹⁴⁵*Ibid.*

¹⁴⁶*Ibid.*

Punta del Este declaration that did not expect developing countries to reciprocate on trade concessions.¹⁴⁷ Shukla's MFA stance was fronted by a strong declaration by Indian Finance Minister V.P. Singh at GATT to dispel with the MFA by making its 'present extension the last one.'¹⁴⁸ Like Shukla, Singh underlined contradictions in statements released by developed countries on upholding a liberal trading order while undermining that objective through arrangements like the MFA.¹⁴⁹

The Indian delegation directed its efforts to eliminate MFA through the International Textiles and Clothing Bureau (ITCB), a body of twenty developing countries that exported textiles and garments. ITCB was established 'to achieve the elimination of discrimination and protectionism directed against member exports of textiles and clothing in world markets.'¹⁵⁰ From July 1987, ITCB was given observer status in the Negotiating Group on Textiles and Clothing where negotiations on textiles took place. The bureau gathered the views of its member states on the MFA and related textile issues through the trade round with a desire to eliminate the arrangement. Removing the MFA proved tough, early on, since developed countries had grown accustomed to it. In 1988, a suggestion by the U.S. and Canadian delegations to replace MFA with a transitional system of global quotas was rebuffed by ITCB countries.¹⁵¹ Most importing countries did not want to disrupt what they saw as a reliable arrangement but ITCB countries did not yield easily.¹⁵² A breakthrough was achieved when developed countries agreed in 1989 to place textiles under the GATT's orbit away from bilateral quota agreements.¹⁵³ Negotiations proceeded fitfully with differences widening between ITCB countries and importing countries on the details of a MFA phase-out.

In 1991, the Indian delegation submitted a comprehensive brief through the

¹⁴⁷Ibid.

¹⁴⁸GATT, *Statement by H.E. Mr. V.P. Singh, Finance Minister, Government of India*. MIN (86)/ST/33 (Stanford, CA: GATT, 1987)

¹⁴⁹ Ibid.

¹⁵⁰GATT, *Communication from the Chairman of the International Textiles and Clothing Bureau (ITCB)*. MTN.GNG/W/10 (Stanford, CA: GATT, 1989)

¹⁵¹GATT, *Communication made by the delegation of Indonesia on behalf of a number of Developing Countries, Members of the International Textiles and Clothing Bureau*. MTN.GNG/NG4/W/44 (Stanford, CA: GATT, 1989)

¹⁵²Croome, *Reshaping the world trading system*, 229.

¹⁵³Robert Weisman, "GATT's New Clothes: Bringing the Textile industry into the GATT," *The Multinational Monitor*, Volume 11, 1990: 18.

ITCB, elaborating their expectations of the MFA and textile coverage in GATT.¹⁵⁴ The brief tied the persistence of the MFA to structural problems faced by developing countries in the international economy, namely, the inability to accumulate sufficient foreign exchange to finance necessary imports that then generated an acute balance of payment difficulties.¹⁵⁵ To assist developing countries in avoiding this predicament they required, ‘unrestricted access to the markets of industrialised countries for their exports, especially their manufactured exports.’¹⁵⁶ The removal of restrictions, the brief added, was essential ‘to the very success of the Uruguay Round negotiations.’¹⁵⁷ Indian negotiators urged the negotiating committee to gradually phase out MFA restrictions in a clear time-bound schedule to avoid another renewal once the current arrangement expired. The preferred formula was for restrictions to be eliminated in four phases over a six-year period ending in 1997.¹⁵⁸ Resistance grew from some developed countries, particularly the U.S., that wanted more time for the transition.¹⁵⁹

As negotiations stalled, delegates managed to extend the MFA provisionally for 17 months until January 1993.¹⁶⁰ The U.S. delegation responded with a more cautious proposal, suggesting a ten-year transition to incorporate textiles into GATT.¹⁶¹ The ITCB opposed the proposal at first; perceiving it as a move to stall progress, Shukla exhorted other member states to not place clothing and textiles ‘on the back burner.’¹⁶² But his plea was met by calls from developed countries that they ‘needed more time to amend all the necessary national legislation’ for a phase-out.¹⁶³ Finally, a compromise was reached to use the U.S. proposal as the basis for a final agreement.¹⁶⁴

Final bargaining on the MFA took place in 1992.¹⁶⁵ The holdover issues were the duration of the phase-out and the rate and scope through which textiles would be

¹⁵⁴Member states were on the verge of determining whether a temporary provision would continue trade until a more permanent solution was in place. See Croome, ‘*Reshaping the world trading system*,’ 159.

¹⁵⁵GATT, *Communication from India: Integration of the Textiles and Clothing Sector into GATT*. MTN.GNG/NG4/W/28. (Stanford, CA: GATT, 1991)

¹⁵⁶*Ibid.*

¹⁵⁷*Ibid.*

¹⁵⁸Weisman, *GATT’s New Clothes: Bringing the Textile industry into the GATT*, 20.

¹⁵⁹Croome, *Reshaping the world trading system*, 242.

¹⁶⁰‘*Press Communiqué 1516*,’ *General Agreement on Tariffs and Trade 1990*, <https://docs.wto.org/gattdocs/q/GG/GATT/1516.PDF>.

¹⁶¹Weisman, *GATT’s New Clothes: Bringing the Textile industry into the GATT*, 19-20.

¹⁶²Croome, *Reshaping the world trading system*, 176.

¹⁶³*Ibid.*

¹⁶⁴Weisman, *GATT’s New Clothes: Bringing the Textile industry into the GATT*, 20.

¹⁶⁵Croome, *Reshaping the world trading system*, 320.

integrated into the GATT. Despite pleas from the ITCB to change the schedule, the American suggestion of a ten-year transition period prevailed. The final agreement - Agreement on Textiles and Clothing (ATC) managed to strike a balance between competing interests. The result drew from the foundation set by India's ITCB proposal that called for a time-bound approach with several adjustments made to placate developed countries. Under the ATC, it was agreed that quotas on textiles would be phased-out over a ten-year period from the completion of the trade round.¹⁶⁶ All textile imports prohibited under MFA would have to be cleared by 31 December 2004.¹⁶⁷ By 2005, the ten-year mark, member states would have to eliminate a wide range of textile quotas. For India, the new agreement achieved two interests – secure additional market access for Indian textile and garment exports within an acceptable timeframe, and importantly, resultant concessions would not be subject to reciprocity. Though tariffs on textiles would eventually have to be lowered, certain restrictions would remain on textiles and clothing from developed countries.¹⁶⁸

Securing Gains in Agricultural Trade

With respect to agriculture, India looked for more market access in developed countries. At the first meeting of the Negotiating Group on Agriculture in December 1987, India concurred with the main thrust of proposals that called for 'liberalization of trade in agriculture through the removal of distortions and restrictions.'¹⁶⁹ However, Indian officials did so with a caveat - by imploring countries to consider 'the development dimension' of the problem.¹⁷⁰ This proviso meant recognising developing countries were due 'special and differential treatment' on agriculture.¹⁷¹ In other words, opening up markets for the import of agricultural commodities from the developing world without expecting them to reciprocate in-kind and doing away with the range of

¹⁶⁶Ibid, 312.

¹⁶⁷Alice J.H. Wohn, "Towards GATT Integration: Circumventing Quantitative Restrictions on Textiles and Apparel Trade Under the Multi-Fiber Arrangement," *Journal of International Economic Law*, 22 (2001): 405.

¹⁶⁸Ibid, 405.

¹⁶⁹Croome, *Reshaping the world trading system*, 189.

¹⁷⁰GATT, *Statement by H.E. Mr. S.P. Shukla, Ambassador, Permanent Representative of India*. SR.43/ST/16 (Stanford, CA: GATT, 1988)

¹⁷¹Ibid.

subsidies given to domestic farmers.¹⁷² Reciprocity, Shukla hoped, would be relaxed for trade in agriculture.¹⁷³

The Indian delegation submitted an elaborate proposal on agriculture in December 1988.¹⁷⁴ The proposal divided responsibilities between developed and developing countries and urged GATT to push developed countries to 'integrate trade in agriculture' through the elimination of trade distortive or restricted measures, subsidies that impinged on agricultural trade and prohibition of other non-tariff measures.¹⁷⁵ India proposed that GATT recognise the distinct status of developing countries vis-à-vis agriculture since it constituted a disproportionately large part of their economies, necessitating a 'strong leadership role from the state.'¹⁷⁶ Specifically, the proposal urged GATT to validate the right of developing countries to adopt measures to aid farmers through price support, subsidies, research grants and stocking and distribution provisions.¹⁷⁷ Despite the audaciousness of the proposal and attendant support gathered, the proposal did not tip the scale toward an agreement; developed countries were not compelled, yet, to yield on subsidies.¹⁷⁸

At the mid-term review of trade negotiations in 1990, GATT member states were asked to endorse a broad framework approach to trade in agriculture, characterised by a mix of short (immediate freeze on protectionism) and long-term (market oriented agricultural trading system) goals.¹⁷⁹ The U.S and E.C. resisted offering concessions in the short term, preferring liberalisation over the long haul but that offer was spurned by several developing countries.¹⁸⁰ There was no agreement on agriculture at the mid-term review. The impasse and subsequent stalemate made it clear that agriculture was a battleground, given the varied interests of key countries; this impasse would give some GATT member states, especially in the developed world, the power to veto proposals

¹⁷²GATT, *Statement by India in the Meeting of the Negotiating Group on Agriculture*. MTN.GNG/NG5/W/37 (Stanford, CA: GATT, 1988)

¹⁷³*Ibid.*

¹⁷⁴GATT, *Government of India: Proposal to the Negotiating Group on Agriculture*. MTN.GNG/NG5/W/84 (Stanford, CA: GATT, 1988)

¹⁷⁵*Ibid.*

¹⁷⁶*Ibid.*

¹⁷⁷*Ibid.*

¹⁷⁸Croome, *Reshaping the world trading system*, 174.

¹⁷⁹*Ibid.*

¹⁸⁰*Ibid.*

without ‘corresponding progress on liberalizing agricultural trade.’¹⁸¹

When the negotiating group reconvened in July 1990, Indian officials expressed regret over the inflexibility of developed countries in dispensing with ‘trade restrictive and distortive’ practices.¹⁸² Indian negotiators pushed to exempt India and other developing countries from reciprocating on opening markets for developed countries as ‘it is our view that developing countries assistance to agriculture shall be exempted from reduction commitments.’¹⁸³ India’s exhortations were accompanied by similar statements from other developing countries like Egypt and Malaysia.¹⁸⁴ Sensing the depth of resistance from developing countries, the U.S.’s position began to evolve.¹⁸⁵ In response, Washington offered to adopt tariffication or convert existing non-tariff barriers into a tariff, allowing conditional access to incoming commodities.¹⁸⁶

After that offer, the U.S fleshed out its idea in an elaborate proposal reiterating its desire to phase out export subsidies over ten-years, coupled with tariffication of all non-tariff barriers and adoption of an internal system that disciplined subsidies based on their distortive impact.¹⁸⁷ Developing countries, the U.S. proposal added, would be given leeway when it came to adjusting to these guidelines; openly, the proposal assented that their ‘special and differential status’ would be respected within the framework, however, ‘without compromising the concerns of net food-importing developing countries.’¹⁸⁸ Prevailing chasms were being bridged. Importantly, the U.S. proposal cohered with the proposal forwarded by the Cairns Group that pushed for a phase-out of export subsidies and reduction in the use of domestic subsidies generating agricultural surpluses in developed countries.¹⁸⁹

¹⁸¹Ibid.

¹⁸²GATT, *Statement by India at the twenty-third session of the Negotiating Group on Agriculture*. MTN.GNG/NG5/W/186 (Stanford, CA: GATT, 1990)

¹⁸³Ibid.

¹⁸⁴Croome, *Reshaping the world trading system*, 189.

¹⁸⁵Ibid, 233.

¹⁸⁶Ibid.

¹⁸⁷GATT, *Statement by the United States at the twenty-third session of the Negotiating Group on Agriculture*. MTN.GNG/NG5/W/180 (Stanford, CA: GATT, 1990)

¹⁸⁸Ibid.

¹⁸⁹Ibid. The Cairns Group looked to liberalise global trade in agriculture at negotiations with a particular focus on eliminating subsidies. The group represented 20 agricultural exporting countries – Argentina, Australia, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Indonesia, Malaysia, New Zealand, Pakistan, Paraguay, Peru, the Philippines, South Africa, Thailand, Uruguay and Vietnam.

GATT member states next convened in December 1990 to continue negotiations on agriculture. Plenary sessions were consumed by commerce ministers from member states who underlined their concerns on the round while exhorting the forum to resolve outstanding issues. Indian Commerce Minister Subramanian Swamy hoped that the 'process of liberalization once begun becomes irreversible.'¹⁹⁰ More concretely, Swamy endorsed the Cairns Group's agenda on agriculture, 'we fully share the thrust for liberalization of agricultural trade and reduction of trade distortive subsidization particularly export subsidies.'¹⁹¹ With the U.S, Cairns Group and some developing countries converging on gradual market liberalisation on trade in agriculture, the key holdout now was the E.C., that refrained from offering a commitment on export subsidies. The E.C.'s delay extended negotiations.¹⁹²

To secure an agreement on agriculture, GATT DG Dunkel called for a brief reprieve that lasted until December 1991. Private discussions between the U.S and E.C achieved some progress but Brussels held firm on subsidies to farmers under their Common Agricultural Policy (CAP).¹⁹³ Dunkel intervened to find a solution; he split agricultural negotiations into two streams - technical and political, allowing the E.C to deal internally with CAP before returning to GATT.¹⁹⁴ This decision allowed other member states to agree on what a possible agreement on agriculture would look like. After more discussions, the committee agreed that new rules prioritise market access, reduce export subsidies and phase out domestic agricultural support in an orderly manner.¹⁹⁵ Three components - market access, domestic support and export competition served as the pillars in the final Agreement on Agriculture (AoA).¹⁹⁶ Market access commitments secured the reduction of tariffs in developed countries.¹⁹⁷ Tariffication was endorsed as the preferred way to reduce non-tariff barriers. Domestic support for agriculture was to be reduced by twenty percent.¹⁹⁸ The agreement also stipulated

¹⁹⁰GATT, *Statement by Dr. Subramanian Swamy, Union Minister of Commerce, Law and Justice*. MTN.TNC/MIN (90)/ST/46 (Stanford, CA: GATT, 1990)

¹⁹¹*Ibid.*

¹⁹²Croome, *Reshaping the World Trading System*, 176.

¹⁹³*Ibid.*, 178.

¹⁹⁴*Ibid.*

¹⁹⁵Robert Wolfe and Gillian Youngs, *Farm Wars: The Political Economy of Agriculture and the International Trade Regime* (New York: Macmillan, 1998), 116.

¹⁹⁶The final agreement also included a provision on the liberalisation of Tropical Products which was critical for some developing countries.

¹⁹⁷Croome, *Reshaping the World Trading System*, 178.

¹⁹⁸*Ibid.*

commitments that reduced export competition through subsidies or other types of financing which would be based on aggregate budgetary assistance.¹⁹⁹ All three components, importantly, recognised the special status of developing countries vis-à-vis trade in agriculture. This outcome was vital for India. The implementation period for all three components differed for developed and developing countries.²⁰⁰ The latter had a ten-year cushion before provisions became active.²⁰¹ Developing countries, with India leading, also extolled the rhetoric of special and differential treatment to trade in agriculture. Differentiation became clear in the final agreement though developing countries were not exempt from new rules once they kicked in.

Clinching Trade in Services

The next priority for Indian negotiators was trade in services. The services industry in India was growing and interest warmed to deepen their market access abroad. Nonetheless, Indian negotiators proved cautious, unsure how negotiations would play out and how penetrative rules would be over domestic services industries.²⁰² Negotiations took place under the Group of Negotiations on Services (GNS).²⁰³ Broadly, delegates were asked to adhere to the Punta del Este mandate on services that called to 'establish a multilateral framework of principles and rules for trade in services.'²⁰⁴ The GNS had to clearly define what it meant by services, consider principles for rules on services and determine how wide the services terrain would be. The task was complex as countries had different kinds of service sectors that were not only lucrative (banking, consulting) but also strategically important (telecom, media, etc.). Moreover, discussing trade in services involved getting entangled with domestic regulatory standards when compared to traditional trade in goods.²⁰⁵

Through 1987 and 1988, divisions emerged on the shape and scope of a trade in services agreement. Brazil complained that negotiations were rushed without an

¹⁹⁹Croome, *Reshaping the World Trading System*, 123.

²⁰⁰*Ibid.*

²⁰¹*Ibid.*

²⁰²McDowell, *Globalization, liberalization and policy change*, 126.

²⁰³*Ibid.*

²⁰⁴*Ibid.*

²⁰⁵Jagdish Bhagwati, "Trade in services and the multilateral trade negotiations." *The World Bank Economic Review* 1, 4 (1987): 554.

adequate understanding of incumbent issues.²⁰⁶ India had some idea given the preliminary research done at home that triggered a defensive approach toward trade in services, at first. The February 1987 statement by the Indian delegation defended autonomous national planning and control over certain industries in light of growing service liberalisation. ‘Liberalization,’ the statement argued referred to ‘international trade, not internal trade or the production and distribution of services within national borders.’²⁰⁷ The Indian delegation wanted to limit multilateral intrusion into a whole range of service industries that were under national control.²⁰⁸

The first significant services proposal came from the U.S. in October 1987.²⁰⁹ Washington called for an agreement to advance progressive liberalisation across a wide range of service sectors, applying to ‘the cross-border movement of services and the establishment of foreign branches’ to deliver services across the world.²¹⁰ The proposal anchored the agreement on the principle of national treatment to ensure service suppliers were not discriminated against abroad.²¹¹ The proposal was followed by others, less and more specific on core elements. Discussions looked to narrow down the concepts to build an agreement on. But as the mid-term review neared, there was scant progress on basic issues, exemplified by the fact that the negotiating committee did not submit a single text for further consideration. Tellingly, there was no consensus on the definition of services.²¹²

Back in India, trade officials took stock again on trade in services. A new ‘analytic review’ was commissioned and conducted by the Indian Institute of Foreign Trade (IIFT) on trade negotiations in services.²¹³ The report argued that ‘developed countries were placing more emphasis on transparency and progressive liberalization in

²⁰⁶Ibid.

²⁰⁷GATT, *Communication from India: Statement of India at the GNS Meeting*. MTN.GNS/W/4 (Stanford, CA: GATT, 1987)

²⁰⁸Ibid.

²⁰⁹GATT, *Communication from the United States: Concepts for a Framework Agreement in Services*. MTN.GNS/W/24 (Stanford, CA: GATT, 1987)

²¹⁰Croome, *Reshaping the World Trading System*, 128.

²¹¹Ibid.

²¹²Debates meandered around two approaches. First was to confine trade in services to cross-border sales of services or the direct sale of services by enterprises or individuals residing in another country. Another approach would include services which did not cross the border, or for which the cross-border movement of either factors of production or consumers was required. This would have to regulate of service producers in the consumer's country.

²¹³McDowell, *Globalization, liberalization and policy change*, 101.

trade in services by dismantling various barriers and providing non-discriminatory national treatment. Developing countries, on the other hand, emphasized that the framework give due weightage to developmental needs which have not to be in any way compromised for expansion of trade in services.²¹⁴ The report called on Indian negotiators to push GNS to be more receptive to the interests of developing countries insofar as principles for trade in services were concerned. Progressive liberalisation, the report argued, must be undertaken in line with the 'development objectives' of developing countries.²¹⁵ The report also highlighted burgeoning chasms among the G-77, questioning the need to ally with them as negotiations continued given the interests involved.²¹⁶ Instead, the report pushed Indian negotiators to reassess India's position on the issue arguing that 'a golden chance to possibly rearrange the internal priorities of India both of "substance" and well as "negotiating tactics" no exists. A new orbit for future negotiations . . . certainly tends to emerge itself.'²¹⁷

Midway, trade in services discussions were consumed by the concerns of developing countries. To allow for all countries to discuss matters without prejudice, it was agreed that negotiations would be 'open to participants to bring forward new areas, proposals, concepts and approaches.'²¹⁸ Gradually, the concerns of developing countries on trade in services were laid bare.²¹⁹ Ministers at the meeting eventually agreed that progressive liberalisation in services must be conducted with 'appropriate flexibility for individual developing countries in line with their development objectives,' while allowing developing countries to 'introduce new regulations' to protect certain strategic sectors.²²⁰ India's desire to find an amenable solution, with protections, was highlighted at the meeting by the U.S. and E.C that now recognised the 'the effective role India can play in the course of negotiations, even in the realm of intricate issues.'²²¹

²¹⁴S.S. Saxena and R.K. Pandey, *The Uruguay Round of Multilateral Trade Negotiations under GATT: An Analytic Review* (New Delhi: Indian Institute of Foreign Trade, November 1988), 7.

²¹⁵*Ibid.*

²¹⁶*Ibid.*

²¹⁷*Ibid.*, 64.

²¹⁸McDowell, *Globalization, liberalization and policy change*, 107.

²¹⁹However, at the Montreal meeting, discussions focused on extending special and differential treatment to the least developed developing countries but nonetheless, there was a general desire to be more attuned to concerns and wishes of all developing countries. See, GATT, GATT Focus Newsletter: No. 61 (May 1989).

²²⁰*Ibid.*

²²¹McDowell, *Globalization, liberalization and policy change*, 107.

After Montreal, Indian negotiators returned to actively negotiate trade in services. They also had to contend with an American delegation keen to open up service sectors abroad through GATT for their domestic industries.²²² This interest aligned with India only where it could be competitive in international service markets and that was through labour mobility. At negotiations, Indian officials insisted on broadening the definition of service industries at GATT to include blue-collar labour.²²³ The inclusion of this group, Shukla added earlier, 'would make an agreement to liberalize trade in services less one-sided' and more amenable to developing countries like India.²²⁴ Indian trade officials found an interest within an interest on trade in services.

In September 1989, India's Commerce Minister Dinesh Singh underlined India's strategy for trade in services. Singh pushed for liberalised trade in human resource services, 'especially the international flow of people, both skilled and unskilled' alongside patience in other areas where services were either nationalised or underdeveloped.²²⁵ The approach was spelled out in an elaborate proposal on a framework agreement on services that India submitted to the negotiating committee in December 1989.²²⁶ Unlike the American proposal, India's contribution was pointed, not comprehensive. India's services definition categorically ruled out permanent establishment of foreign businesses and unrestricted foreign direct investment.²²⁷ This understanding meant that foreign firms would not have the right to establish an office to produce a service in the host country or facilitate entry from its home base. Instead, the Indian proposal limited trade in services to three components - cross border supply of specified services, cross border of movement of consumers and most importantly, cross border movement of labour involving 'temporary relocation for production and supply of services.'²²⁸ These ideas also found their way into the June 1990 services proposal developing countries submitted to the GNS.²²⁹

²²²In March 1988, U.S. slapped restrictions through Section 301 for the 2nd straight year on Indian exports.

²²³Ibid.

²²⁴Ibid.

²²⁵GATT, *Communication from India: Elements of a Multilateral Framework for Trade in Services*. MTN.GNS/W/87 (Stanford, CA: GATT, 1989)

²²⁶Ibid.

²²⁷Ibid.

²²⁸Ibid.

²²⁹GATT, *Communication from Brazil, Chile, Columbia, Cuba, Honduras, Jamaica, Nicaragua, Mexico, Peru, Trinidad and Tobago and Uruguay: Structure of a Multilateral Framework for Trade in Services*. MTN.GNS/W/95 (Stanford, CA: GATT, 1990)

Negotiations moved to fill the intricacies of a trade in services agreement that delegates now officially referred to as the General Agreement on Trade in Services (GATS).²³⁰ Discussions focused on three basic elements – the framework text, annex detailing the number of service sectors covered and the schedules of specific national commitments that provided opportunities to foreign services companies.²³¹ As member states worked through these details, prevailing frictions concerning market access and the role of developing countries slackened negotiations. The U.S. revisited the possibility of a linkage between access in goods and services, hinting at retaliation if no agreement emerged.²³² More vexing than this threat was applying national treatment as an organising principle for trade in services; this principle required countries to treat foreign companies as they would national ones.²³³ National treatment was problematic for the services remit that, as mentioned, had industries that were strategically and financially significant to countries. But this idea did not go far; unconditional national treatment was categorically ruled out due to clear opposition from developing countries.²³⁴ Instead, GATT member states had to identify select sectors they wanted exempt from GATS. Indian negotiators accepted this decision given reservations on opening up several domestic service sectors like finance, tourism, insurance, telecom, etc.²³⁵

India's focused participation in trade in services produced results while protecting key interests. The level of development of a particular country was recognised as a key factor in the GATS agreement. On the list of sectors, the agreement moved from a negative list approach listing activities that were restricted to trade, leaving open other areas to a positive list approach that listed areas that countries were willing to keep open.²³⁶ Indian negotiators also managed to keep their 'banking, insurance and basic telecommunications sectors' outside the agreement while securing space 'for temporary movement of its skilled personnel to the developed countries.'²³⁷

²³⁰Ibid, 297.

²³¹Ibid, 312.

²³²Ibid, 242-243.

²³³Ibid.

²³⁴Ibid.

²³⁵McDowell, *Globalization, liberalization and policy change*, 111.

²³⁶Ibid.

²³⁷India submitted a detailed memorandum with a conditional offer of initial commitments on trade in services. This covered all the industries where India was willing to allow foreign involvement and those it

The question of labour services was of particular importance to India; this interest resulted in pushing for rules that allowed more foreign nationals to engage in work abroad. Though most developed countries fought to limit this group to the skilled category, India insisted developing countries ought to 'be able to benefit from their principal competitive advantage.'²³⁸ Eventually, GATS was concluded as a parallel agreement on 15 April 1994 after member states provided their national schedule of commitments, detailing sectors they allowed and disallowed within the agreement.²³⁹

Battling for Intellectual Property Rights

Indian negotiators secured concessions in three key areas - Textiles, Agriculture and Services at the Uruguay Round. Concessions, however, did not come empty-handed; India had to reciprocate on textiles and agricultural exports after a transition period and influenced the pace of liberalisation on trade in services. The Indian government also had to concede on another vital issue - intellectual property rights (hereafter IPR).

India initially opposed GATT's decision to consider intellectual property right issues. A.V. Ganesan, India's principal IPR negotiator, argued that India's reluctance stemmed from a mix of unease over abdicating national policy control on intellectual property issues and a sense that such issues were plainly irrelevant for developing countries like India that had little to gain but much to lose from negotiations.²⁴⁰ India also had reservations considering the matter at GATT given lateral coverage of IPR issues at the World Intellectual Property Organization (WIPO); this fear was compounded by the fact that developing countries were not very familiar with the technicalities of the subject which meant their delegations were negotiating from a position of weakness, not strength.²⁴¹ Also shaping Indian reticence was India's patent law - The Indian Patents Act passed in 1970 that had spawned a burgeoning domestic

did not permit. See, GATT, *Communication from India: Conditional Offer by India of Initial Commitments on Trade in Services*. MTN.GNS/W/144 (Stanford, CA: GATT, 1991)

²³⁸Ibid.

²³⁹Croome, *Reshaping the World Trading System*,

²⁴⁰A.V. Ganesan, "Negotiating for India," in *The Making of the TRIPS Agreement: Personal Insights from the Uruguay Round Negotiations*, eds. Jayshree Watal and Antony Taubman (Geneva: World Trade Organization, 2015), 213.

²⁴¹Indian delegates spent more time on issues pertaining to services and goods that they paid little time to consider IP matters. There was constrain refrain from India and other developing country representatives that intellectual property concerns were beyond the GATT's negotiating mandate which obviated their inclusion into the new Round. See Ibid, 213-215.

pharmaceutical industry.²⁴² Importantly, the law prohibited product patents, allowing only for certain process patents in the food, pharmaceutical and chemical sectors.²⁴³ As a result, acceding to new international guidelines on patents would have meant rewriting domestic rules, a politically difficult proposition, at best.

Nonetheless, IPR negotiations commenced in 1987. Delegates negotiated from a broad mandate, ‘to clarify GATT provisions and elaborate as appropriate new rules to reduce distortions to international trade’ and to ‘develop a multilateral framework of principles, rules and disciplines dealing with international trade in counterfeit goods.’²⁴⁴ Member states agreed negotiations would take place without prejudice to actions taken on IPR issues at WIPO.²⁴⁵ Early negotiations were marked by discord, marred by different interpretations of the IPR mandate.²⁴⁶ Developed countries, with the U.S. leading, sought to negotiate better protections on intellectual property while developing countries sought to limit discussions to counterfeit goods.²⁴⁷ The battle lines were stark.

Negotiations mirrored tussles at WIPO over intellectual property protection. Developed countries placed intellectual property at the heart of economic growth and innovation that merited robust protection.²⁴⁸ To tighten protections, the U.S. submitted an ambitious proposal in October 1987, calling for a comprehensive agreement on patents that ‘would cover minimum standards for protection and enforcement in national law of patents, trademarks, copyright, trade sectors, and the layout design of semiconductors.’²⁴⁹ Predictably, the proposal met resistance from developing countries, including the Indian delegation that loathed having to pay large sums of money to foreign companies for goods through better protections.²⁵⁰ Developing countries looked to foil rules that compromised their ability to produce products like drugs and pharmaceuticals and sought to shift the focus to developmental issues that warranted

²⁴²Ibid.

²⁴³Ibid.

²⁴⁴A. Otten, “The TRIPS Negotiations: An Overview,” in *The Making of the TRIPS Agreement: Personal Insights from the Uruguay Round Negotiations* ed. Jayshree Watal and Antony Taubman (Geneva: World Trade Organization, 2015), 56.

²⁴⁵Ibid.

²⁴⁶Croome, *Reshaping the World Trading System*, 130-133.

²⁴⁷Ibid.

²⁴⁸Ibid.

²⁴⁹Ibid, 131.

²⁵⁰Former Indian GATT Negotiator.

low levels of intellectual property protection.²⁵¹

Through 1987 and 1988, other developed countries moved toward the U.S position. As the mid-term review neared in 1990, confusion reigned over the submission of a draft IPR text for consideration. As countries convened at the mid-term review in Montreal, Dunkel remarked informally that ‘TRIPS (Agreement on Trade Related Aspects of Intellectual Property Rights) was going to be one of the hardest nuts to crack.’²⁵² But Montreal eased some pressures on IPR negotiations. Focus remained on designing a workable system of intellectual property protection but with more consideration given to ‘underlying public policy objectives of national systems’ for the protection of intellectual property.²⁵³ This intervention led to a flurry of national proposals on intellectual property standards with member states submitting views on IPR.²⁵⁴

The Indian delegation was pleased national objectives would be woven into negotiations to grapple with ‘the development and public policy dimensions’ of issues involved.²⁵⁵ Until now, Indian negotiators insisted IPR issues were foreign to GATT and should remain out of the trade round. Then, in a seminal policy shift, the Indian government agreed to the inclusion of substantive norms and standards on IPRs as called for by the original IPR mandate, essentially changing its previous position. The shift’s timing in late 1989 coincided with India’s eagerness to negotiate concessions and secure greater market access in other goods and services. Pressures from other areas seeped into negotiations on intellectual property rights.²⁵⁶ It was, in the words of A.V. Ganesan, India’s IPR negotiator, a ‘signal to the world’ that India was eager to engage deeply and more outwardly with the global economy; Ganesan affirmed later when asked about the shift, stating that he was instructed by the Prime Minister’s Office to make it clear to other countries that India was looking to further ‘integrate its economy into the global economy’ and that the Uruguay Round represented an opportunity to advance that objective.²⁵⁷

²⁵¹Ibid.

²⁵²Croome, *Reshaping the World Trading System*, 138.

²⁵³Ibid.

²⁵⁴Ibid, 250-251.

²⁵⁵Former Indian GATT Negotiator.

²⁵⁶Ibid.

²⁵⁷A.V. Ganesan, *Negotiating for India*, 225.

India's decision to negotiate IPR issues was also a result of the pressures exerted by the U.S. via Section 301 of the US Trade Act that imposed trade restrictions on particular countries.²⁵⁸ US trade officials targeted India, among other developing countries, for 'some of India's practices fit the Trade Action definition of unfair and the key problem as we see it is a lack of product patent protection for pharmaceuticals, chemicals and food products, etc.'²⁵⁹ India was not the only country threatened but it had the distinction of being placed on the Priority Watch list from April 1989. In fact, the U.S went as far as threatening to seek India's expulsion from GATT 'unless it resiles its position on intellectual property and patent rights.'²⁶⁰ Access to the U.S market for other Indian goods were also under threat as a result; this threat made avoidance of trade frictions paramount, compelling India to engage on IPR issues.²⁶¹

Negotiating IPR issues meant India and other developing countries had a say in the determination of rules. Indian trade officials realised a more pertinent approach would be to bargain and restrict the agenda to their interests.²⁶² This approach meant mainstreaming concerns of developing countries into the IPR domain. Soon after conceding to negotiate IPR issues, the MOC issued a public statement to allay domestic concerns stating "this decision is merely a procedural concession. There is no fundamental change in the stand that developing countries should receive preferential treatment. India has agreed to discuss the matter to see whether at the end of the day a package emerges that is "Gattable."²⁶³ After delivering the statement, Indian trade negotiators got to work on IPR.

India's first IPR proposal in 1990 sought to limit GATT's scope from overly influencing rules around intellectual property rights, 'India would like to reiterate that the protection of intellectual property rights has no direct or significant relationship to international trade. It would not be appropriate to establish within the framework of the General Agreement on Tariffs and Trade any new rules and disciplines on intellectual property rights. In our view, therefore, there can be no linkage between the basic

²⁵⁸"Some Indian policies unfair under U.S. trade act," *The Times of India*, April 25, 1989, 15.

²⁵⁹"India and the U.S. disagree on Patents," *The New York Times*, April 17, 1989, D10.

²⁶⁰"The U.S. plays bully," *The Times of India*, November 6, 1989, 12.

²⁶¹Former Indian GATT Negotiator.

²⁶²*Ibid.*

²⁶³GATT, *India Presents its views on Intellectual Property and Investment Measures*, GATT NUR/031 (Stanford, CA: GATT, 1989)

principles relating to intellectual property rights and the GATT system.²⁶⁴ On principles, the Indian proposal eschewed focus on underlying liberal principles; concepts like most favoured nation and national treatment, the Indian statement argued, were inapt for intellectual property issues as these principles were limited to border measures affecting trade of goods and ‘not the rights or protection of private parties providing services within national boundaries.’²⁶⁵ The Indian proposal hedged by stating that GATT principles that mattered for IPR were transparency and differential and favourable treatment of developing countries.²⁶⁶

Some developing countries like Argentina, Egypt and Tanzania endorsed India’s proposal, identifying it as the ‘first structured treatment of the issues from the point of view of developing countries.’²⁶⁷ But this view was not shared by several developed countries who questioned the selective application of GATT principles in the area.²⁶⁸ Nonetheless, India’s proposal scored a major victory when it was accepted as the basis for further negotiations after gaining the support of the E.C., Canada and Japan on particular provisions, including compulsory licensing.²⁶⁹ That India brought out this debate demonstrated its interest in substantively engaging on IPR issues albeit with the intention to soften the impact on developing countries.

To move negotiations forward, the U.S, Japan, E.C and Switzerland tabled draft TRIPS agreements in 1990. Despite procedural differences, all four submissions supported an agreement on patents under GATT. All four submissions claimed better protections would be a net benefit for all states, particularly through technological diffusion that could fuel innovation and growth. At the same time, thirteen developing countries, including India, submitted a proposal that voiced their reservations toward stronger protections. Their proposal focused on controlling counterfeit goods through

²⁶⁴GATT, *Communication from India: Applicability of the basic principles of GATT and relevant international intellectual property Agreements or Conventions*. MTN.GNG/NG11/W/39 (Stanford, CA: GATT, 1989).

²⁶⁵*Ibid.*

²⁶⁶*Ibid.*

²⁶⁷*Ibid.*

²⁶⁸Croome, *Reshaping the World Trading System*, 134.

²⁶⁹Jayshree Watal, “Patents: An Indian Perspective,” in *The Making of the TRIPS Agreement: Personal Insights from the Uruguay Round Negotiations* ed. Jayshree Watal and Antony Taubman (Geneva: World Trade Organization, 2015), 300.

GATT.²⁷⁰ On standards, the document stressed the concerns of citizens imperilled by greater protection in sectors like food and health, offering, in turn, little guarantees for patent holders.²⁷¹ Prevailing differences produced an impasse as member states reconvened in November 1990; it became clear that for a possible breakthrough, IPR rules would have to straddle the need for greater protections with concessions given to developing countries against tougher standards. Indian officials needled other states to recognise the status and position of developing countries vis-à-vis IPR issues.

Efforts to finalise the TRIPS agreement continued in 1991. Negotiations hinged on the scope of protections and patent coverage, special arrangements for developing countries including transitional periods and how to incorporate intellectual property issues into GATT.²⁷² Informal consultations in December 1990 resulted in a sharp narrowing of differences among key countries. This entente produced the famous Dunkel Draft, recognising the leadership of GATT Director General Arthur Dunkel who shepherded the last mile of IPR negotiations.²⁷³ Specifically, the Dunkel draft allowed patent protection to last twenty years for products and processes in all fields.²⁷⁴ Developing countries were allowed a transitional period of ten years of protection before domestic patent rules would have to be revised.²⁷⁵ Thus, countries like India which had rules in place for process patents would have to adapt them to include patents for products once the transitional period expired. Similarly, India's domestic patent rules that protected product patents for 14 years and process patents for 5 years would have to be extended to 20 years. In terms of compulsory licensing that allows a patentee to exploit the patent for commercial purposes without authorisation from the patent holder, the Dunkel draft proved narrow; the draft guaranteed patent rights regardless of 'whether products are imported or locally produced.'²⁷⁶ But the document did allow countries to issue compulsory licenses without patent holder authorisation when a national emergency occurred.²⁷⁷ Developing countries insisted on the latter protection.²⁷⁸

²⁷⁰GATT, *Communication from Argentina, Brazil, Chile, China, Colombia, Cuba, Egypt, India, Nigeria, Peru, Tanzania and Uruguay*. MTN.GNG/NG11/W/71. (Stanford, CA: GATT, 1990)

²⁷¹*Ibid.*

²⁷²Croome, *Reshaping the World Trading System*, 318.

²⁷³Biswajit Dhar and C. Niranjana Rao, "Dunkel draft on TRIPS: complete denial of developing countries' interests." *Economic and Political Weekly*, Vol. 27, 6 (1992): 475.

²⁷⁴*Ibid.*

²⁷⁵*Ibid.*

²⁷⁶A. Otten, *The TRIPS Negotiations: An Overview*, 59.

²⁷⁷*Ibid.*

Just as IPR negotiations were ending, the Indian economy experienced a financial crisis in mid-1991. The crisis forced India's lead IPR negotiator and incoming Commerce Secretary A.V. Ganesan to approach the final Dunkel draft with a strong dose of pragmatism tempered nonetheless by self-interest.²⁷⁹ On compulsory licensing, Ganesan accepted the final provision that allowed all TRIPS signatories to issue a compulsory license in the event of a national emergency or crisis; the exception was critical to protecting access to medicines in India.²⁸⁰ The provision also drew on India's initial TRIPS proposal that called for patent exceptions based on national interest that had the support of the E.C., Canada and Japan. Ganesan also agreed to the inclusion of national public policy objectives in the draft, critical to mount a defence on when a patent dispute occurs. But before Ganesan could finalise the TRIPS agreement, the issue got embroiled in a political crisis back home.

Negotiating Intellectual Property Rights

India's policy shift on IPR issues at the Uruguay Round was influenced by two business groups - Confederation of Engineering Industry (CEI) and Federation of Indian Chambers of Commerce (FICC) that lobbied the government to amend its rigid position on IPR.²⁸¹ In an interview before negotiations, CEI President Chowdhary indicated that New Delhi should pursue negotiations as 'negotiations would lead to solutions' on patents as these rules 'will have a bearing on the future of the services and consulting industry' in India.²⁸² To augment the MOC's knowledge on patents, CEI held formal industry-government discussions on the matter to clarify issues surrounding its inclusion before the government decided on the matter.²⁸³ These discussions focused on emphasising the link between patent rights and innovation and how domestic firms that specialised in information technology, consulting and software-related services were affected in terms of future business opportunities, should the government remain defensive on IPR issues.²⁸⁴

²⁷⁸Ibid.

²⁷⁹A.V. Ganesan, *Negotiating for India*, 220.

²⁸⁰Ibid.

²⁸¹This organization would later become the Federation of Indian Chambers of Commerce and Industry (FICCI).

²⁸²"U.S. urged not to hit India over trade practices," *The Times of India*, April 20, 1989, 12.

²⁸³Ibid.

²⁸⁴Anil Suraj, Indian Institute of Management Bangalore. Interview by author. April 10, 2016.

Also chiming in was Pai Pannadikar, Secretary of FICC, who stressed ‘better patent protection would encourage foreign investment and technology transfer that India needs.’²⁸⁵ FICC’s hope was to get the government to ‘globalise Indian industry’ by encouraging Indian firms to establish links with innovative international firms so Indian firms ‘could better service global customers and markets.’²⁸⁶ Rejecting negotiations and rules on patents, CEI and FICC claimed, would have effectively made India less attractive to foreign investment. This fear was not just an abstraction; in the late 1980s, both India and the U.S were in the midst of signing and executing bilateral agreements in science and technology, including projects in areas like material sciences, health sciences, software and telecommunications that were worth hundreds of millions of dollars.²⁸⁷ In fact, an American trade official privately conveyed to Indian negotiators that without a satisfactory agreement on IP, “you can forget all about technology transfer and trade expansion.”²⁸⁸ India’s disengagement on IPR issues could have imperilled these projects and this factored into the decision made by the Indian government. Patents, Chowdhary and Tarun Das, CEI Secretary, claimed stood in the way of greater integration, already threatened by retaliatory trade pressures from the U.S.²⁸⁹

The lobbying of these two business groups on IPR issues prevailed over the qualms of another domestic group wary of the Indian government’s decision to negotiate IPR issues. The other key interest group was the National Working Group on Patent Laws (NWGPL), a New Delhi based non-profit group that specialised on issues related to India’s 1970 Patent Act. Largely composed of lawyers, the NWGPL worked to clarify the impact of international patent rules and laws on India’s domestic patent system to protect the rights of Indian citizens against international organisations and corporations.²⁹⁰ The group lobbied against patent liberalisation. Initially, NWGPL was formed in response to TRIPS negotiations to resist pressures on to reform India’s patent system but the group evolved to become a focused voice against patent reform.²⁹¹

²⁸⁵“Indian Patent Rule Thorny Issue,” *The Times of India*, July 8, 1989, 11.

²⁸⁶“U.S. urged not to hit India over trade practices,” *The Times of India*, April 20, 1989, 12.

²⁸⁷“India and the U.S. disagree on Patents,” *The New York Times*, April 17, 1989, D10.

²⁸⁸Inder Malhotra, “Caught in the TRIPS trap,” *The Times of India*, April 20, 1989, 12.

²⁸⁹Former Indian GATT Negotiator.

²⁹⁰Reji Joseph, *Pharmaceutical Industry and Public Policy in Post-reform India* (New Delhi: Routledge, 2015), 34-35.

²⁹¹A.V. Ganesan, *Negotiating for India*, 219.

As IPR negotiations progressed, NWGPL sought to ensure that the Indian government did not extend the rights of process patent owners to product patents given the importance of the domestic pharmaceutical industry to public health.²⁹² Specifically, NWGPL articulated concerns over the increased costs of medicines and pharmaceuticals from new rules on patent protection.²⁹³ India's TRIPS negotiators, however, were aware of these issues. Former TRIPS negotiator Jayshree Watal recalls her chief concern during negotiations was to save 'India's compulsory license/license of right system to the extent possible.'²⁹⁴ India's initial IP proposal called for freedom and flexibility in sectors like food and pharmaceuticals and focused on the provision on compulsory licensing that gave developing countries the right to suspend patent protections when required.²⁹⁵

As the TRIPS agreement neared finalisation, NWGPL refocused their attention on India's IPR concessions. In September 1993, the group convened the first People's Commission on TRIPS issues to debate the constitutional issues of TRIPS agreement that included the participation of former Judges of the Supreme Court of India and the retired Chief Justice of the Delhi High Court.²⁹⁶ The Commission's report highlighted the implications of TRIPS agreement on access to medicines that would effectively conflict with the Indian Patents Act and the Indian Constitution's right to life guarantee enshrined in Article 21.²⁹⁷ The NWGPL framed the TRIPS agreement as a human rights issue, given the potential costs to Indian citizens heavily reliant on life-saving medicines, whose access would be compromised due to intellectual property protections.²⁹⁸

Though receptive to the pleas of domestic groups on patents and medicines, the Narasimha Rao-led Congress government did not amend its position on TRIPS or instruct negotiators to reject the agreement. What made NWGPL's views less palatable

²⁹²Duncan Matthews, "When framing meets law: Using human rights as a practical instrument to facilitate access to medicines in developing countries," in *TRIPS and Developing Countries: Towards a New IP World Order?* ed. Gustavo Ghidini et al. (London: Edward Elgar Publishing, 2014),

²⁹³*Ibid*, 33.

²⁹⁴Jayshree Watal, *Patents: An Indian Perspective*, 299.

²⁹⁵GATT, *Communication from India: Applicability of the basic principles of the GATT and of relevant international intellectual property Agreements or conventions* (Stanford, CA: GATT, 1992)

²⁹⁶Duncan Matthews, *When framing meets law*, 34.

²⁹⁷Harsh Dobhal, *Writings on Human Rights, Law, and Society in India: A Combat Law Anthology: Selections from Combat Law, 2002-2010* (New Delhi: Socio Legal Information Centre, 2011), 317.

²⁹⁸*Ibid*.

at that juncture was the fact that Indian trade negotiators had managed to secure exemptions on patents for developing countries through compulsory licensing which neutralised their fears. The government also made the political case for the TRIPS agreement by explaining that parts of the agreement provided exemptions for developing countries like India on product patents in the event of an emergency or crisis. In addition, the government reassured parliament and the Indian public of the potential benefits from the entire Uruguay Round agreement, including gains made on other matters like agriculture, textiles and services. These gains, the government argued, stood to be compromised by rejecting the TRIPS agreement.

Clinching the Agreement

Unexpectedly, the Dunkel draft brought the ferocious domestic politics around IPR issues to the forefront in India. The Congress government looked to soft pedal the matter to avoid a direct confrontation with other political parties that feared the government was conceding on a matter of national importance.²⁹⁹ Public opinion had soured since the previous government's decision to consider IP issues at the round.³⁰⁰ In March 1993, the Communist Party of India (Marxist) (CPI (M)) moved a resolution to invalidate the IP agreement but this move was rejected by the government who insisted the Dunkel draft did not constitute an outright concession on intellectual property rights.³⁰¹ Parliamentary debates on the TRIPS agreement in 1992 and 1993 increased pressure on the Indian government to disclose details of concessions made on intellectual property and trade in services.³⁰²

Through 1993 and early 1994, parliamentary debates were marred by rancour toward the Uruguay Round. Disinformation and rumours pervaded. A phalanx of cabinet ministers defended the government's position and approach, given future economic gains from intensified trade negotiations with other member states.³⁰³ Opposition parties like the BJP, JD and CPI (M) kept the pressure up, castigating the government for 'selling out India's sovereignty' on an agreement that 'could not bring

²⁹⁹Former Indian GATT Negotiator.

³⁰⁰A.V. Ganesan, *Negotiating for India*, 225.

³⁰¹*Ibid.*

³⁰²*Ibid.*

³⁰³"Options open on GATT: Pranab," *The Times of India*. April 22, 1.

suggested gains.³⁰⁴ For opposition parties, the conditions imposed on India's policies on agriculture and intellectual property rights were articulated as traps laid by developed countries or as they put it, 'neo-colonialism through the backdoor.'³⁰⁵ Nonetheless, time had run out to make substantive changes to the main trade agreement.³⁰⁶ Backing out of the TRIPS agreement now could compromise gains secured through other trade agreements, namely various goods and services.

Publicly, the government made the case that rejecting the trade agreement was tantamount to exiting the multilateral trade system 'which was unthinkable.'³⁰⁷ In 1993, a parliamentary committee was formed to examine the Dunkel draft and ascertain if the TRIPS agreement and provisions on patent protections harmed Indian interests. After deliberations, the committee endorsed the government's position,

'there are differing opinions on the desirability of India binding itself to the Uruguay Round. There is no denying the fact that the final outcome is not in the best interests of India on every count. But in multilateral agreements, it is always a question of give and take. Undoubtedly, in today's world, with increasing interdependence of nations multilateral agreements with MFN status for all participants are decidedly advantageous as compared to bilateral agreements. Every country has the sovereign right to stay out of GATT and it cannot be argued that India's interests would be best served by giving up the membership of forum.'³⁰⁸

Criticism from opposition parties did not cease with the judgment but the government's position was vindicated. Some opposition members from the JD and CPI (M) clamoured for India to withdraw from GATT and exit Uruguay Round negotiations. Largely lost in this melee were public assurances from the Commerce Minister Pranab Mukherjee and Prime Minister Rao that commensurate space existed in the TRIPS agreement for exceptions through compulsory licensing.³⁰⁹ In June 1993, Commerce Secretary A.V. Ganesan reiterated in a public interview that 'we don't have a choice on patents,' and that India would have to accept the Dunkel draft but clarified, 'sufficient

³⁰⁴“GATT Forces LS Adjournment,” *The Times of India*, April 20, 1994, 1.

³⁰⁵*Ibid.*

³⁰⁶But this did not mean that details of the agreements were finalized. On several issues including services and TRIPS, countries had to work after the GATT agreement was signed to clarify their commitments.

³⁰⁷“Anti-GATT Protests baseless propaganda,” *The Sunday Times*, April 10, 1994, 1.

³⁰⁸Jayshree Watal, *Patents: An Indian Perspective*, 309.

³⁰⁹“Options open on GATT: Pranab,” *The Times of India*, April 22, 1994, 1.

protections existed to minimise the impact of high drug prices' through price control mechanisms and importantly compulsory licensing.³¹⁰ However, the political wrangling continued. The government was lambasted for not standing up with other developing countries, turning its back on decades of leadership as a leader of developing countries on trade issues.³¹¹ Nonetheless, the government remained firm on its support to the agreement.

With some modifications, agreements on trade in goods and services, investment measures and intellectual property rights were accepted by GATT member state representatives in December 1993 and Commerce Ministers in April 1994.³¹² Ministers from 125 countries, including India, signed the Uruguay Round trade agreement on April 15 1994.³¹³ India ratified the agreement on December 9 1994.³¹⁴ The agreement created a new international trading system alongside the largest package of market concessions negotiated by GATT member states. GATT member states agreed to cut tariffs by an average of 37 percent.³¹⁵ The final trade agreement also replaced GATT with the World Trade Organization (WTO) that came into effect on January 1 1995.³¹⁶

Conclusion

India negotiated and ratified the Uruguay Round trade agreement to secure additional market access for Indian exporters and further boost India's revived economic trajectory. Moves taken by Ministry of Commerce (MOC) to liberalise export and import rules improved output in several sectors including textiles, chemicals and manufacturing items. Agricultural output was on the ascent. Services received a fillip through policy efforts to develop India's technological base. India's proactive intent to secure additional market access at trade negotiations for goods like textiles and agriculture grew from the spate of trade policy reforms adopted that sensitised Indian trade officials to the range of international trade restrictions stifling India's export output and the range of opportunities that existed in areas like trade in services and

³¹⁰Croome, *Reshaping the World Trading System*, 338.

³¹¹"Options open on GATT: Pranab," *The Times of India*, April 22, 1994, 1.

³¹²Croome, *Reshaping the World Trading System*, 348.

³¹³"India, 124 Nations sign GATT Pact," *The Times of India*, April 15, 1994, 1.

³¹⁴"Centre Ratifies Pact on WTO," *The Times of India*, April 15, 1994, 2.

³¹⁵*Ibid.*

³¹⁶*Ibid.*

intellectual property rights. To remove existing constraints and capitalise on opportunities, Indian trade officials sought to procure additional market access in developed countries for Indian textiles and agricultural commodities while protecting India's development interests at negotiations on trade in services and intellectual property right issues.

Second, the market access drive of Indian trade negotiators at the Uruguay Round was supported by a coalition of business groups and lobbies that advocated for liberalisation and additional market access on key goods and for the government to negotiate rules in trade in services and intellectual property right issues given their implications to their business prospects and India's economic growth. Various business lobbies and groups from the textile, agriculture and services industries conveyed their preferences to the Ministry of Commerce for greater market access for their goods. In areas like services and intellectual property rights, lobbies like the Confederation of Engineering Industry (CEI), Federation of Indian Chambers of Commerce (FICC) and the National Association of Software and Services Companies (NASSCOM) urged the Commerce Ministry to amend their defensive outlook and participate to negotiate rules given the implications of these rules to their current and future business prospects. The material benefits accruing to these lobbies and firms they represented were high from additional market access to their goods in developed countries and from the government's decision to negotiate on trade in services and intellectual property rights that ensured concessions gained on non-tariff barriers and trade in goods and services would not be compromised.

Chapter Seven - Conclusion

Introduction

This thesis has investigated how and why India negotiated four specific international rules – Framework Convention on Tobacco Control (FCTC), Framework Convention on Climate Change (FCCC), Comprehensive Test Ban Treaty (CTBT) and GATT's Uruguay Round Trade Agreement. The fundamental gap that the thesis attempts to fill is the lack of scholarly attention given to empirically chronicling and explaining how India negotiates international rules and what drives India's behaviour in this regard. Gaps from the literature review on Indian foreign policy revealed that a focus on elucidating how the political economy – interests, institutions and interest groups – around these four rules would help in excavating the Indian government's approach at negotiations and whether it ratified the rule or not. The empirical focus was on four specific international rules that India has negotiated – Framework Convention on Tobacco Control, Framework Convention on Climate Change, Comprehensive Test Ban Treaty and the GATT Uruguay Round trade agreement.

Political economy matters to explain why and how India negotiates international rules. It is vital to map how key state institutions and domestic interest groups act and how they determine India's core interests toward a particular rule. State institutions that interface on international negotiations greatly affect how India negotiates a particular international rule. Concretely, it is worth investigating if the ministry overseeing international negotiations has a robust understanding of the policy problem necessitating negotiations and is able to coherently present and defend incumbent interests at negotiations. Influencing state institutions during this process are domestic interest groups that were or stood to be affected by a particular international rule that, at times, triggers their advocacy to influence the government's approach at negotiations. In the end, ratification or rejection of an international rule hinges on how key institutions and interest groups internally negotiate the incumbent trade-offs accompanying the rule.

When the interests and objectives of the bureaucracy overseeing international negotiations and interest groups affected by the international rule converge, India will likely seek to shape and ratify the international rule as seen through its behaviour while

negotiating the Framework Convention on Tobacco Control. Before FCTC negotiations, the government not only sought to pass a comprehensive tobacco control law (COTPA) but gradually disengaged from domestic tobacco production. Concurrently, New Delhi urged domestic tobacco farmers to find alternate livelihoods away from tobacco production. Tobacco control became a clear priority for the BJP-led coalition government headed by Atal Behari Vajpayee. These measures gave the Indian health ministry a robust understanding of tobacco consumption and how India was buffeted by the growing problem. With political support from the Prime Minister, legislature and domestic tobacco control groups keen on strengthening laws around tobacco use, the Indian delegation arrived at negotiations to negotiate a tough framework convention that constrained international tobacco commerce and promoted tobacco cessation and prevention. Interest groups, specifically the Advocacy Forum for Tobacco Control (AFTC), pushed Indian officials to suggest and accept tougher controls at FCTC negotiations given the raging tobacco consumption problem at home. Their knowledge-based advocacy trumped countervailing pressures from the tobacco industry since the Indian government was prepared to tackle rising tobacco use.

India behaved similarly at the Uruguay Round trade negotiations where trade negotiators battled to secure additional foreign market access for Indian exporters, particularly for goods in agriculture, textiles and services, given the estimated material benefits to Indian firms and the Indian government that was on a reform path. The government's focus on economic reforms, particularly production and international trade from the mid-1980s, compelled Indian trade officials to push for additional market access for producers keen to boost exports abroad. India's textile, agricultural and services exporters also stood to gain materially through additional market access for their goods and services; these groups represented by various business and commerce associations conveyed their preferences to Ministry of Commerce officials before and during trade negotiations. Business lobbies in agriculture, textiles and services supported further liberalisation and worked to assuage the anxieties of trade officials on opening up protected sectors through the final trade agreement.

On climate change, the Indian government was less aware of the implications of potential international efforts to mitigate global warming. As global warming emerged on the international landscape as an issue, New Delhi's focus was on industrialisation

and growth. The government sought to ease controls stymieing industrial production without recourse to see whether or if the environment was affected; this approach, however, harmed the broader environmental state of the country. Moreover, environmental officials did not adequately acquaint themselves with the emergent global warming problem having been preoccupied with concerns related to pollution and enforcement. Given a weak knowledge base on climate change, Indian diplomats drew from the concerted advocacy of domestic environmental groups like the Centre for Science and Environment (CSE) and The Energy and Resources Institute (TERI) to adopt a narrow approach that boiled climate change from a scientific and technical issue to a developmental issue with clear political implications. Both CSE and TERI realised the implications of adopting an environmental approach at negotiations would have compromised growth rates and the ability to shield India's poorest citizens from climate mitigation commitments. This tack benefitted both CSE and TERI whose own work and advocacy on the environment was closely tied to development.

In contrast, when international rules clash with or compromise core interests of the Indian government and interest groups seeking to influence the government's position are putatively split on the rule, India will be less inclined to ratify the rule. This scenario sums up India's behaviour at negotiations for the Comprehensive Test Ban Treaty. When negotiations did not meaningfully reduce the nuclear gap between India and existing nuclear weapon states and discounted universal nuclear disarmament, Indian negotiators voiced their reservations toward the treaty while holding out for some progress. The government's ability to forge its own path and reject the CTBT was abetted by fragmented domestic perspectives regarding the treaty from the strategic community. Domestic security experts held differing views on how the Ministry of External Affairs should negotiate the CTBT; these commentators advocated for the government to either - accept the treaty with certain conditions, reject the treaty and test nuclear weapons or withdraw altogether to keep the testing option open. The diversity of preferences impinged on the government's ability to settle on a clear policy stance with respect to the CTBT; but, multiple views, however, gave the Indian government more leeway to categorically rule on the issue. Eventually, Indian officials rejected the CTBT. Given these findings that testify to the importance of political economy, I consider whether we need a new approach to make sense of how rising powers negotiate international rules in the next section.

Is India a Rising Power when Negotiating International Rules?

The world is experiencing major shifts in the distribution of power. The ascent of rising powers and their intentions generally arouse concern. Fundamental questions of war and peace, economic growth and social welfare may depend on how rising powers perceive international rules and organizations designed to address collective action problems afflicting the international order. Scholarly attention on rising powers during power transitions has focused largely on classifying rising powers on the basis of their economic capabilities, which purportedly propel them to challenge the hegemon leading to war.³¹⁷ Unfortunately, the transition process does not capture institutional interactions with the international order that allows rising powers to focus on enhancing their growth trajectories. Moreover, there is very little evidence to suggest rising powers like India will not be interested in interacting with various aspects of the international order to facilitate their economic growth and solidify their position as a key state.

Through the case studies, in fact, this thesis shows that how India negotiates and whether it ratifies or rejects a particular international rule matters to global governance *writ large*. India's approach and positions at FCCC and FCTC negotiations affected how countries conceptualised climate change and tobacco control at negotiations that influenced provisions and rules designed to address both policy issues. For climate change, India's clear-eyed political stances, given development-related implications, influenced negotiations and helped produce a framework convention that was defensive in terms of how countries would mitigate greenhouse gas emissions. In contrast, the robust tobacco-control approach adopted by Indian negotiators at FCTC negotiations, widely endorsed by other developing countries, resulted in a framework convention that expected WHO member states who ratified the agreement to progressively reduce tobacco use. At the Uruguay Round, the proactive tack adopted by Indian trade negotiators to increase market access for developing country goods and reduce the intensity and use of subsidies and non-trade barriers on exports like agriculture and

³¹⁷A.F. K. Organski, *World politics* (New York City: Knopf, 1958) and A.F. K. Organski and Jacek Kugler, *The war ledger* (Chicago: University of Chicago Press, 1981); Also see J. Diccio and J. Levy, "Power Shifts and Problem Shifts: The Evolution of the Power Transition Research Paradigm," *Journal of Conflict Resolution*, 43, 6 (1999): 677. Although power transition theorists have largely focused only on war, Organski & Kugler do assert that a process of dissatisfaction does exist without going further to examine how this manifests. But this space does give us room to mine vis-à-vis rising power behaviour in the international order.

textiles by developed countries helped produce GATT agreements that liberalised trade access with protections added for developing countries. India's behaviour behoves us to further investigate how other rising powers behave toward international rules and what drives their behaviour.

But to better understand and explain this dynamic, we may have to come up with a more refined and possibly differentiated understanding of rising powers that allows us to distinguish between some rising powers like Japan, Russia, Germany and South Korea that have increased their material capabilities and are able to use incumbent institutional and political resources to facilitate their rise in the international order and other rising powers like India, Brazil and perhaps China that may face difficulties in this regard. These constraints could affect their behaviour in the international order.

Instead, we could conceptualise these latter rising powers as *Premature Powers* or rising powers that generally have to deal with numerous development-related policy challenges as their growth trajectories rise.³¹⁸ That is, they appear to be, at once, rising powers when measured in terms of aggregate material capabilities (GDP) but also large populous developing countries where per capita incomes are low and the range of development challenges confronted are high. This latter feature could constrain these specific rising powers from extracting the necessary resources to build their material capabilities. Moreover, we cannot take for granted the institutional capacity of these states that facilitate their rise nor can we assume that these states act of their own accord, largely independent of domestic political pressures. As a result, *Premature Powers* may be categorised as states that have a marked global footprint in terms of aggregate output (GDP), levels of investment and trade but are also large, populous developing countries that face challenges in terms of poverty, illiteracy, malnutrition and disease, etc. As a result, these states bear a unique dilemma – balancing

³¹⁸I have drawn this conceptualisation from Former Indian Foreign Secretary Shyam Saran's neologism of Premature Powers. Saran claims certain powers are premature powers or rising powers that have to confront and address myriad development challenges while shouldering major burdens vis-à-vis global governance and international order. See Shyam Saran, 'Premature Power', *The Business Standard*, March 17, 2010.

international responsibilities and burdens that grow with their footprint and the needs and aspirations of citizens striving for socio-economic mobility.³¹⁹

This feature distinguishes them from how rising powers are generally understood in the International Relations discipline. For IR scholars, rising powers possess the necessary political and institutional capabilities to accumulate power in the international order; moreover, their rise, when measured in economic terms, is generally not encumbered by domestic constraints or interests. In other words, rising powers are considered to be strong states adept at managing domestic pressures - both economic and political.³²⁰ What they overlook is the politics associated with economic growth and development. Without understanding the politics of development and the constraints posed by that process, it is difficult to explain how these rising powers increase their material capabilities. In fact, in 2015, of the top twenty economies in the G-20, seven had GDP per capita that was less than 10,000 (US\$); these countries also ranked in the middle or amongst lower income countries in the 2015 Human Development Index – Brazil, China, India, Indonesia, Mexico, South Africa and Turkey.³²¹ Some of these countries are generally referred to as ‘Emerging Markets’ or countries marked by high annual economic growth rates distinguishing them from other middle and lower income

³¹⁹ I have drawn this conceptualisation from Former Indian Foreign Secretary Shyam Saran’s neologism of Premature Powers. Saran claims certain powers are premature powers or rising powers that have to confront and address myriad development challenges while shouldering major burdens vis-à-vis global governance and international order. See Shyam Saran, “Premature Power,” *The Business Standard*, March 17, 2010.

³²⁰ To explain power transitions, Organski and Kugler focus on five wars of hegemonic transitions as the culmination of rivalry between rising powers and the hegemon - Napoleonic wars, Franco-Prussian Wars, Russo-Japanese War, World War I and World War II. For Robert Gilpin, hegemonic wars between the hegemon and challengers leads to a reordering of the existing international system or the rise of a new one. He focuses on several wars as examples – Peloponnesian War, Second Punic War, Thirty Years War, Napoleonic War, WW I and WW II. Texture and nature of rising power interactions were different. It is also important to remember that in terms of capita income, rising powers in the 19th and 20th century – Japan and Germany were much closer to the hegemon, U.K and later the U.S than we are today. See Angus Maddison, *The world economy volume 1: A millennial perspective volume 2: Historical statistics*, (London: Academic Foundation, 2007), 206.

See Organski and Kugler, *The War Ledger*, 19-20; Gilpin, *War and Change*, 200.

³²¹ In 2015, the per capita income of the United States was \$55,800 (US) nearly five times that of key premature powers. These 2015 figures are gathered from the World Bank’s database. See “World Bank: GDP Database,” Accessed July 12, 2016, <http://data.worldbank.org/indicator/NY.GDP.PCAP.PP.CD> The UNDP’s Human Development Index measure how a wide set of countries perform across a set of social and economic indicators that track levels of education, health, poverty, gender equality, etc. But the index has also been criticised for not being attentive to ecological considerations that affect economic development in a country. See “UNDP Global Human Development Index,” Accessed June 11, 2016, <http://hdr.undp.org/en/data>

countries.³²² This understanding, though, obscures the fact that some of these emerging markets are still developing countries that face a litany of development-oriented policy challenges. As mentioned earlier, this feature distinguishes them from other rising powers like – Japan, South Korea, Russia - that are wealthier, have achieved high levels of development, have stronger institutional capacities and are generally able to muster the requisite domestic resources, political and institutional, to facilitate their rise.

It may be helpful conceptualising these particular states as *Premature Powers* that are rising powers but also large populous developing countries that possess and manage an array of institutional deficits as they rise. These deficits affect how public policy is formulated and implemented to address key policy challenges. Moreover, as underdeveloped states, they are, possibly, more susceptible to be influenced by domestic interest groups that push the state to act in their interest. Negotiating and acceding to international rules thus could involve acute trade-offs and adjustments for domestic groups and interests. This scenario could precipitate their advocacy into the policy process that governments in these rising powers have to be sensitive to. These two features, as a result, could acquire salience when trying to infer how rising powers behave toward international rules.

Looking Ahead – Implications for Future Research

As just pointed out, the existing IR literature on rising powers has overlooked the texture and variation in rising power behaviour in the international order particularly with respect to their attitudes toward international rules. Understanding why rising powers behave differently thus could require a new approach, one that is, as suggested in the previous section, more sensitive to political economy constraints that some rising powers face. This focus of inquiry can be further extended.

Looking at India, this thesis has considered and explained its multilateral behaviour by covering how it negotiated four particular international rules. A recent

³²²This neologism was originally coined by Jim O'Neill, Goldman Sachs analyst, in 2001 to identify countries that represented potential growth opportunities in the future. Initially, this group covered Brazil, India, Russia, China and South Africa or the BRICS. See "Goldman Sachs N-11 Equity Portfolio," http://www.goldmansachs.com/gsam/docs/funds_international/brochures_and_sales_aids/fund_literature/advisor_brochure_n-11_en.pdf

edited volume on India's multilateral behaviour argued that India's interests have grown in the international order resulting in India acting as a rule shaper, rule taker or rule breaker.³²³ But the volume does not ask what precipitated these attitudes or why India behaved in a particular way. If we extend the political economy approach used here to consider India's positions and decisions on other international agreements like the Rome Statute on the International Criminal Court, International Health Regulations, intellectual property rights agreements and internet governance, we can better substantiate whether India's multilateral behaviour and choices made thereof are contingent on certain conditions. This work is worth pursuing to build the literature on Indian multilateralism.

While this thesis has focused on India's approach and behaviour toward international rules, the findings can shed light on how other rising powers like China and Brazil behave provided we make necessary analytical adjustments as suggested earlier. Conceptualising these rising powers as *Premature Powers* and using a political economy approach to probe their behaviour could possibly help in explaining their positions on issues like climate change, international development cooperation and emergent issues like cyber security where rules are being drafted. Such questions could be central to understand how power transitions pan out in the years ahead.

³²³W.P.S. Sidhu, P.B. Mehta, and Bruce Jones, *Shaping the emerging world: India and the multilateral order*. (Washington, DC: Brookings Institution Press, 2013)

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ANNEX I – Interviews Conducted

FCTC

K. Srinath Reddy, Director, Public Health Foundation of India. New Delhi, February 10, 2015.

P.C. Gupta, Indian Epidemiologist and Director, Sekhsaria Institute of Public Health. New Delhi, February 6, 2015.

Former Joint Secretary, Ministry of Health, Government of India. New Delhi, February 11, 2015.

Bhavani Thygarajan, Former Joint Secretary (Tobacco Control), Ministry of Health, Government of India. New Delhi, January 12, 2015.

Shoba John, Programme Director, Healthbridge Canada. New Delhi, January 23, 2015.

Salim Habayeb, Former Director, WHO India. E-mail Interview, January 26, 2015.

Vineet Gill, National Officer, WHO India. New Delhi, January 22, 2015.

Srinivas Tata, Former Indian FCTC Negotiator. New Delhi, January 25, 2015.

Dhirendra Sinha, Regional Tobacco Control Advisor, WHO SEARO. New Delhi, January 21, 2015.

FCCC

T.P. Sreenivasan, Former Diplomat, Indian Ministry of External Affairs. New Delhi, May 7, 2015.

Chandrashekhar Dasgupta, Former FCCC Negotiator, Indian Ministry of External Affairs. New Delhi, April 2, 2015.

Mukul Sanwal, Former FCCC Negotiator, Indian Ministry of Environment and Forests. New Delhi, April 28, 2015.

Former Indian Climate Change Negotiator, Ministry of Environment and Forests, New Delhi, May 12, 2015.

Darryl D'Monte, Environmental Journalist, Mumbai, June 18, 2015.

CTBT

Muchkund Dubey, Former Indian Foreign Secretary. New Delhi, April 21, 2016.

Achin Vanaik, Anti-Nuclear Activist. New Delhi, November 18, 2015.

Former Indian Disarmament Negotiator. New Delhi, December 11, 2015.

GATT Uruguay Round Trade Agreement

Former Indian GATT Negotiator, Ministry of Commerce. New Delhi, February 5, 2016.

Anil Suraj, Professor, Indian Institute of Management Bangalore. Phone Interview, April 10, 2016.